

Keith Papendick, M.D.

08/23/2021

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDREW LYLES,

#667516,

Plaintiff,

vs.

PAPENDICK et al,

Defendant.

Case No. 2:19-cv-10673

District Judge: Laurie J. Michelson

Magistrate Judge: Patricia T. Morris

_____/

VIRTUAL ZOOM DEPOSITION OF KEITH PAPENDICK, M.D.

taken remotely via Hanson Renaissance Court Reporters & Video,
commencing on Monday, August 23, 2021, at 11:02 a.m.

APPEARANCES:

For the Plaintiff:

MR. IAN T. CROSS (P69635)
Margolis & Cross
214 S. Main Street
Suite 200
Ann Arbor, Michigan 48104
(734) 994-9590
ian@lawinannarbor.com

For Defendants
Oliver and Papendick:

MR. DEVLIN KYLE SCARBER (P64532)
Chapman Law Group
1441 W. Long Lake Road
Suite 310
Troy, Michigan 48098
(248) 644-6326
dscarber@chapmanlawgroup.com

Keith Papendick, M.D.**08/23/2021****Pages 2..5**

Page 2

Page 4

1 APPEARANCES (Continued):

2 For MDOC Defendants: MS. JENNIFER A. FOSTER (P75947)
 Michigan Department of Attorney General
 3 PO Box 30217
 Lansing, Michigan 48909
 4 (517) 335-3055
 fosterjl5@michigan.gov

5
 6 REPORTED BY: Ms. Diane Murray, CSR-4019, RPR
 7
 8
 9

10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 Monday, August 23, 2021 - 11:02 a.m.
 2 COURT REPORTER: We're now on the record. I am
 3 not in the same location as the witness and this
 4 deposition is being conducted remotely.
 5 Hearing that there are no objections to
 6 administering the oath remotely, I will now swear in the
 7 witness.

8 KEITH PAPENDICK, M.D.,
 9 having been called and duly sworn:
 10 EXAMINATION

11 BY MR. CROSS:

12 Q. Morning, Dr. Papendick. Nice to see you again. My name's
 13 Ian Cross. I represent the Plaintiff, Andrew Lyles.

14 Something I want to go over first, because we
 15 had some trouble with it last time, when I ask you a
 16 question, I need you to answer the question that I asked
 17 you and not another question.

18 Do you understand what that means?

19 A. Yes.

20 Q. What does it mean?

21 A. That means that I answer the question you have and not try
 22 to get any more information in.

23 Q. Okay. Did you review any documents in preparation for
 24 today's deposition?

25 A. Just the medical record.

Page 3

Page 5

TABLE OF CONTENTS		
		PAGE
1	EXAMINATIONS	
2	Examination by Mr. Cross	4
3	Examination by Mr. Scarber	64
4	Re-Examination by Mr. Cross	69

EXHIBITS		
(Attached hereto.)		
EXHIBIT	DESCRIPTION	PAGE
11	Number 1 Procedure Consent	14
12	Number 2 January Consultation	20
13	Number 3 November Consultation	26
14	Number 4 December Consultation	33
15	Number 5 Curriculum vitae	38
16	Number 6 Interrogatories and Requests for	49
17	Production	
18	Number 7 Pope Opinion and Order	59

15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 Q. What medical records did you review?
 2 A. I believe they were supplied by you and the 407's that I
 3 had done.
 4 Q. So you reviewed your 407's and you reviewed some medical
 5 records?
 6 A. 407 is a medical record.
 7 Q. Did you review a transcript of a deposition?
 8 A. No.
 9 Q. Okay. Did you review any UpToDate literature?
 10 A. No.
 11 Q. All right. Are you a medical doctor?
 12 A. I am.
 13 Q. Did you have to complete some education or training to
 14 become a medical doctor?
 15 A. I did.
 16 Q. What education or training did you complete?
 17 A. I have my medical doctor's degree from Wayne State
 18 University, School of Medicine, in Detroit.
 19 Q. Were you taught about the human digestive system in
 20 medical school?
 21 A. Of course.
 22 Q. Can you please identify each of the components of the
 23 human gastrointestinal tract, starting with the mouth and
 24 ending with the anus, and for each component give us a
 25 brief description of the function it performs?

Keith Papendick, M.D.

08/23/2021

Pages 6..9

Page 6

Page 8

1 MR. SCARBER: Just going to object to form --
 2 Dr. Papendick -- and the foundation -- Dr. Papendick isn't
 3 your expert witness here. I mean if you've got a question
 4 you want to ask him specific about Mr. Lyles and his
 5 decisionmaking with respect to that, that's fine, but my
 6 objection is to form and foundation, and you also asked
 7 about four questions in one question.

8 So I'm not going to stop your question but
 9 that's my objection. You might have to break it down.

10 BY MR. CROSS:

11 Q. You may answer.

12 MR. SCARBER: If you understand his question, go
 13 ahead.

14 **A. Well, it's an extensive question. You have the lips, the**
 15 **teeth, the mouth, which is, will break the food into**
 16 **smaller pieces, mixing it with amylase. You have the oral**
 17 **pharynx where the food goes into the esophagus. You have**
 18 **the esophagus, which functions to move the food from the**
 19 **oral pharynx into the stomach. You have the stomach,**
 20 **which digests the food, it's highly acid, and it's not**
 21 **total digestion but it's the breakdown of the**
 22 **macromolecules into smaller sections. The duodenum, which**
 23 **is the first part of the small intestine after the**
 24 **stomach, and in the duodenum, you mix with the pancreatic**
 25 **juices, which include amylase, lipase and protease, which**

Page 7

1 **breaks down starch, lipase, fat and protein into its basic**
 2 **molecules of the food which are then absorbed through the**
 3 **small intestine. At the point of the small intestine**
 4 **going into the large intestine is the ileocecal valve and,**
 5 **after it goes through there, the function is predominantly**
 6 **to absorb water. So when the contents of the bowel go**
 7 **into the large intestine, it's all liquid and when it**
 8 **comes out, of course, it's not supposed to be liquid.**

9 Q. Okay. You mentioned that the process of digestion
 10 involves acid; correct?

11 **A. Correct.**

12 Q. Where in the digestive tract is the acid located?

13 **A. In the stomach.**

14 Q. Is there acid in the large intestine?

15 **A. Typically it's right at neutral.**

16 Q. Okay. What is a proton pump inhibitor?

17 MR. SCARBER: Let me just place an objection to
 18 foundation as well. Some of these questions are fairly
 19 general and can be different with respect to different
 20 patients, but go ahead. Next question.

21 **THE WITNESS: I didn't hear him.**

22 MR. SCARBER: Okay.

23 BY MR. CROSS:

24 Q. Did you hear my question?

25 **A. No.**

1 Q. Okay. What is a proton pump inhibitor?

2 **A. It is a medication and chemical that stops the stomach**
 3 **from making acid.**

4 Q. Okay.

5 **A. Well, it decreases the stomach from making acid.**

6 Q. What do you do for a living?

7 **A. I'm a physician.**

8 Q. By whom are you employed?

9 **A. Quality Corrections -- Quality Corrections Care of**
 10 **Michigan, P.C.**

11 Q. What is your job title?

12 **A. Utilization management medical director.**

13 Q. How long have you been a utilization management medical
 14 director?

15 **A. Since 2014.**

16 Q. What did you do before you were a utilization management
 17 medical director?

18 **A. I was a hospitalist at Duane Waters Health Center in**
 19 **Jackson.**

20 Q. What is Duane Waters Health Center?

21 **A. It is the prison's -- it used to be a hospital. It's now**
 22 **just a health center.**

23 Q. What is utilization management?

24 COURT REPORTER: You're echoing really bad, Ian.

25 MR. CROSS: I don't know what to do about that.

Page 9

1 COURT REPORTER: We can keep trying and see how
 2 it goes, I guess.

3 BY MR. CROSS:

4 Q. What is utilization --

5 **A. Utilization management is --**

6 MR. SCARBER: You want him to answer?

7 MR. CROSS: If he heard the question.

8 MR. SCARBER: You were just talking over each
 9 other. I apologize, but there is a slight, a slight
 10 delay. He's gonna answer your question about what
 11 utilization management is. Go ahead.

12 **A. Utilization management is the department that reviews**
 13 **requests for off-site visits and looks at, in our medical**
 14 **judgment, looks at whether they are best for the patient.**

15 BY MR. CROSS:

16 Q. What is the purpose of utilization management?

17 COURT REPORTER: Excuse me. There's delays and
 18 echos.

19 (At 11:15 to 11:23 a.m., recess taken to
 20 troubleshoot Zoom connection.)

21 (At 11:23 a.m., record repeated by reporter as
 22 follows: "Q. What is the purpose of
 23 utilization management?")

24 **A. I answered that question.**

25 BY MR. CROSS:

Keith Papendick, M.D.

08/23/2021

Pages 10..13

Page 10

Page 12

1 Q. Well, then we didn't hear it.
 2 **A. Oh, great. Utilization management is the department that**
 3 **looks at the requests to make certain that the patient is**
 4 **getting the best care.**
 5 Q. So the purpose of utilization management is for the
 6 benefit of the patient?
 7 **A. Absolutely.**
 8 Q. And how does it benefit the patient, to review requests
 9 for off-site services?
 10 **A. Because sometimes off-site services are not, in medical**
 11 **judgment, the best thing for the patient and, thus, we**
 12 **tell them that.**
 13 Q. So do you have any information to judge the propriety of
 14 an off-site service that the doctor on site doesn't have?
 15 **A. No. Just purely medical judgment.**
 16 Q. Are you board certified in any specialty?
 17 **A. Not any longer.**
 18 Q. Were you previously board certified in any specialty?
 19 **A. Yes, I was.**
 20 Q. What was that specialty?
 21 **A. Family practice.**
 22 Q. What is the difference between family practice and
 23 internal medicine?
 24 **A. Family practice takes care of pediatric patients and**
 25 **sometimes OB as well as internal medicine.**

Page 11

1 Q. And what does internal medicine do?
 2 **A. They look at the medical care of the patient without doing**
 3 **pediatrics or OB.**
 4 Q. Okay. What are your job duties as a utilization
 5 management medical director?
 6 **A. Review 407's.**
 7 Q. What's a 407?
 8 **A. 407 is a document that is called a 407 because that's what**
 9 **it was when it was on paper at the Michigan Department of**
 10 **Corrections, and so they continued to use the**
 11 **nomenclature. It's a consult request.**
 12 Q. Can you describe the process of how the request gets to
 13 you?
 14 **A. The request is placed in the computer, it then goes to my**
 15 **nurse who puts it into CARES, and I review the case from**
 16 **there.**
 17 Q. So what's CARES?
 18 **A. CARES is a program developed by Corizon Health for the**
 19 **utilization management to look at reviews and/or those**
 20 **reviews to be sent to billing so that the bill can be**
 21 **paid.**
 22 Q. Does utilization management have anything at all to do
 23 with cost control?
 24 **A. No.**
 25 Q. When you received the 407 request in CARES, do any

1 documents come along with that 407 request, such as
 2 medical records?
 3 **A. A 407 is to be all-inclusive of everything I need but, on**
 4 **occasion, I have asked for more records.**
 5 Q. Okay. This CARES process, was it in place in 2016?
 6 **A. It was coming into -- it came into fruition in 2016.**
 7 Q. Do you know when, in 2016, it came into fruition?
 8 **A. No.**
 9 Q. So in, for example, November of 2016, you don't know if
 10 you would have be using CARES or not?
 11 **A. Absolutely not certain.**
 12 Q. Okay. And you testified that all of the information you
 13 need to make a decision must be contained in the request;
 14 correct?
 15 **A. The providers are told that all of the information is to**
 16 **be in the 407.**
 17 Q. Is there a section in the 407 called Failed Outpatient
 18 Therapies?
 19 **A. I don't believe so. I don't know.**
 20 Q. So Failed Outpatient Therapies are not listed in the 407?
 21 MR. SCARBER: Just going to place an objection.
 22 If you have a form that you want to refer to him or put
 23 up, so you can show him the 407 in which you're talking
 24 about, I think that would be better.
 25 BY MR. CROSS:

Page 13

1 Q. Go ahead.
 2 **A. I don't look at the 407.**
 3 Q. You don't?
 4 **A. No. The 407's are put into CARES.**
 5 Q. So what do you look at if not the 407?
 6 **A. The CARES entry.**
 7 Q. Okay. Why do doctors at the prisons need to get your
 8 approval for certain procedures?
 9 **A. They need to get my approval because I have had some**
 10 **training that allows me to look at what's best for the**
 11 **patient and not necessarily what they want.**
 12 Q. What was that training?
 13 **A. I have twenty-five years of medical practice in managed**
 14 **care and then what I received when I first came on the job**
 15 **in '14.**
 16 Q. What's managed care?
 17 **A. Essentially utilization management in the insurance**
 18 **company.**
 19 Q. And why would an insurance company want to do utilization
 20 management?
 21 **A. To make sure the patient is getting the best care.**
 22 Q. So this is really a quality control mechanism is what
 23 you're telling me?
 24 **A. You can, you can call it that. We're not part of the**
 25 **Quality Control Department.**

Keith Papendick, M.D.

08/23/2021

Pages 14..17

Page 14

Page 16

1 Q. All right. I'm going to attempt to show you --
 2 **A. You're going to attempt to what?**
 3 Q. -- show you a document.
 4 Can you see that?
 5 **A. I see "Ian Cross has started screen sharing" in a big,**
 6 **black screen.**
 7 Q. Oh, that's unfortunate.
 8 **A. Now I can see it.**
 9 Q. Okay. Is this something that you reviewed to prepare for
 10 today's deposition?
 11 **A. I don't believe so.**
 12 Q. Okay.
 13 MR. SCARBER: Could you identify what it is,
 14 Ian, for the record, so we'll know in case something
 15 happens?
 16 MR. CROSS: This is a page -- we'll call this
 17 Exhibit 1. It is a page from the Plaintiff's hard file
 18 medical records.
 19 MR. SCARBER: And what date and all that kind of
 20 stuff is what I'm --
 21 MR. CROSS: The date is 11-22-2016, 2:04 p.m.
 22 (Deposition Exhibit Number 1 will be marked upon
 23 receipt.)
 24 BY MR. CROSS:
 25 Q. So do you see where it says provider?

Page 15

1 **A. Yes.**
 2 Q. Do you know who that person is?
 3 **A. Yes.**
 4 Q. Who is she?
 5 **A. She's a physician that works in a couple other places.**
 6 Q. Does she work in prisons?
 7 **A. Well, of course.**
 8 Q. Okay. And her name is Sharon Oliver?
 9 **A. Correct.**
 10 Q. Okay. Did Dr. Oliver need to send you a request before
 11 she could perform -- well, strike that.
 12 This is a Procedure Consent Form --
 13 **A. Correct.**
 14 Q. -- for an anoscopy; correct?
 15 **A. Correct.**
 16 Q. What is an anoscopy?
 17 **A. That's where you look inside the anus.**
 18 Q. Did Dr. Oliver need to send you a request form before she
 19 could perform an anoscopy on this patient?
 20 **A. No.**
 21 Q. Why not?
 22 **A. Because it's an on-site procedure and not an off-site**
 23 **procedure.**
 24 Q. I want to direct your attention to the second sentence of
 25 the paragraph there. Could you read that for the record?

1 **A. "The specific risks of bleeding, death, failure rate,**
 2 **infection, possible continued pain, possible conversion to**
 3 **open surgery, possible loss of function, repeat procedure**
 4 **were discussed in detail."**
 5 Q. So those risks, those are real risks; right?
 6 **A. Absolutely.**
 7 Q. Those things can actually happen when you undergo an
 8 anoscopy; correct?
 9 **A. Yeah.**
 10 Q. How can an anoscopy result in death?
 11 **A. If the rupture of a -- any procedure has a three percent**
 12 **chance of risk, a risk of death, number one.**
 13 Q. So --
 14 **A. Number two, you can have death from an anoscopy if you**
 15 **cause infection or bleeding. There is no open procedure**
 16 **for anoscopy.**
 17 Q. So if an anoscopy is so dangerous, why is Dr. Oliver
 18 authorized to do it without your approval?
 19 MR. SCARBER: Just going to place an objection.
 20 It's outside the -- it mischaracterizes the witness'
 21 testimony. Go ahead.
 22 **A. If the provider is able to or, and, and knows how to do an**
 23 **anoscopy, there's no reason why they shouldn't be doing**
 24 **them on site.**
 25 BY MR. CROSS:

Page 17

1 Q. Why do providers need approval from utilization management
 2 for off-site procedures but not for on-site procedures?
 3 **A. Because they have to have trans -- one major issue is they**
 4 **have to have transportation and they have to have approval**
 5 **for an off-site visit for transportation.**
 6 Q. But didn't you say that utilization management was about
 7 making sure the patient gets the best care?
 8 **A. Certainly.**
 9 Q. So why wouldn't you want to make sure the patient gets the
 10 best care with respect to on-site procedures?
 11 **A. Who, who is to say they aren't?**
 12 Q. Let me understand this. When the doctor wants to send the
 13 patient off site for a service, you review that request to
 14 make sure that the risks of the proposed service do not
 15 outweigh the benefits to the patient; correct?
 16 **A. It may -- repeat that question again, please.**
 17 MR. CROSS: Can you read the question back,
 18 ma'am?
 19 (At 11:37 a.m., record repeated by reporter as
 20 follows: "Q. Let me understand this. When the
 21 doctor wants to send the patient off site for a
 22 service, you review that request to make sure
 23 that the risks of the proposed service do not
 24 outweigh the benefits to the patient; correct?")
 25 **A. I review it to see that it's the best medicine for the**

Keith Papendick, M.D.

08/23/2021

Pages 18..21

Page 18

Page 20

1 patient. In my medical judgment, I have to be able to
 2 say, yes, that is what should be done next.
 3 BY MR. CROSS:
 4 Q. And why would it not be important for you to do that when
 5 a dangerous on-site procedure is being performed?
 6 A. An anoscope is a rather benign procedure that is performed
 7 by lots of physicians.
 8 Q. How about a colonoscopy? Is a colonoscopy a rather benign
 9 procedure that is performed by lots of physicians?
 10 A. No.
 11 Q. So a colonoscopy is more dangerous than an anoscopy?
 12 A. Yes.
 13 Q. Would you agree that in terms of knowing the patient, a
 14 doctor who lays their hands on the patient probably knows
 15 more about the patient than anybody that hasn't touched
 16 the patient?
 17 A. Probably. Yes.
 18 Q. So why wouldn't you defer to the medical judgment of
 19 Dr. Oliver regarding whether a patient needs a given
 20 off-site procedure?
 21 A. I've already explained that, that sometimes those
 22 procedures that are requested are not the best for the
 23 patient.
 24 Q. Do you have some information about what's best for the
 25 patient that Dr. Oliver doesn't have?

Page 19

1 MR. SCARBER: Just going to place an objection.
 2 That's been asked and answered.
 3 A. No.
 4 BY MR. CROSS:
 5 Q. So why would you second guess her medical judgment?
 6 A. I'm not second guessing; I'm making a medical judgment as
 7 a utilization manager.
 8 Q. What is an ATP?
 9 A. Alternative treatment plan. It's an abbreviation.
 10 Q. Do you sometimes create ATP's rather than approving an
 11 on-site physician's request for an off-site service?
 12 A. Yes.
 13 Q. How often do you do that?
 14 A. How often?
 15 Q. Yes.
 16 A. It's right around ten percent of the time.
 17 Q. Ten percent of the time.
 18 And how many of these requests do you review a
 19 day again?
 20 A. Probably that depends on the day, that depends on the
 21 week, it depends on how many people are off on PTO. I
 22 mean I really can't tell you that number.
 23 Q. Well, is it more than ten?
 24 A. Yes.
 25 Q. Is it more than fifty?

1 A. I'm sure there are days that it is.
 2 (Deposition Exhibit Number 2 will be marked upon
 3 receipt.)
 4 BY MR. CROSS:
 5 Q. All right. I'm going to show you another document. We'll
 6 call this Exhibit 2.
 7 Do you recognize this document?
 8 A. It's a 407.
 9 Q. Is this a document you reviewed to prepare for today's
 10 deposition?
 11 A. Yes.
 12 Q. Okay. I want to direct your attention to the sentence
 13 starting on line three of the Signs & Symptoms paragraph.
 14 MR. SCARBER: Hey, Ian, I don't want to
 15 interrupt you, but you've got to identify the, you know,
 16 exhibit, like the date. There's a couple of -- there's a
 17 bunch of 407's in this case. So --
 18 MR. CROSS: So --
 19 MR. SCARBER: -- you can just say this is dated
 20 whatever and that's fine. At least I'll know.
 21 MR. CROSS: Request dated January 6th, 2017; is
 22 that fair?
 23 BY MR. CROSS:
 24 Q. I want to direct your attention to the second sentence on
 25 line three of the Signs & Symptoms paragraph.

Page 21

1 Could you read that for us?
 2 A. "He was found to have FOBT positive on 11-8, 11-9, 11-17,
 3 11-18, 11-22. He complained of epigastric pain."
 4 Q. Okay. What is FOBT? What does that mean?
 5 A. That means that they found occult blood in his stool.
 6 Occult, o-c-c-u-l-t.
 7 Q. Why is that something you would test for?
 8 A. To evaluate whether the patient has blood in his stool.
 9 Q. Why would a doctor need to know if there's blood in a
 10 patient's stool?
 11 A. We test them yearly for FOBT's for blood in the stool as
 12 colorectal cancer screening.
 13 Q. So you're saying that the reason you would test for blood
 14 in a patient's stool is to screen for colorectal cancer?
 15 A. Not the only reason.
 16 Q. What other reasons might you test for blood in a patient's
 17 stool?
 18 A. If a patient complains of blood in the stool; if the
 19 patient has anemia.
 20 Q. I'm sorry. Go ahead.
 21 A. If the patient has anemia.
 22 Q. You would agree that blood in a patient's stool could
 23 indicate that the patient has colorectal cancer?
 24 A. It could. It could also --
 25 MR. SCARBER: Finish your answer.

Keith Papendick, M.D.

08/23/2021

Pages 22..25

Page 22

Page 24

1 A. It could also indicate that the patient has eaten meat or
 2 beets, or somebody read the FOBT test wrong.
 3 BY MR. CROSS:
 4 Q. All right. I want to direct your attention to the last
 5 paragraph in the Signs & Symptoms -- or the last sentence
 6 in the Signs & Symptoms paragraph. I'm sorry.
 7 Could you read that for the record?
 8 A. "Now with increasing numbers of stools, six to seven times
 9 a day with BRB, and he has a seven-pounds weight loss
 10 since December of '16."
 11 Q. What's BRB?
 12 A. Bright red blood.
 13 Q. Isn't blood always bright red?
 14 A. No.
 15 Q. When is blood in the stool not bright red?
 16 A. Typically when it's a stomach bleed, it's black.
 17 Q. What is melena?
 18 A. Black stools.
 19 Q. What does that indicate about the source of the bleeding?
 20 A. Did this case have melena?
 21 Q. Can you just answer my question?
 22 A. Yeah.
 23 MR. SCARBER: Object to relevance, but go ahead.
 24 A. Black stools typically or -- no -- may indicate that the
 25 patient has bleeding in his stomach, it may indicate that

Page 23

1 he's used Pepto Bismol, and it may even be indicated, may
 2 be found in patients who eat red meat.
 3 BY MR. CROSS:
 4 Q. And what does bright red blood in the stool indicate?
 5 A. Bleeding further down the stool, down the colon.
 6 Q. Okay. What are some -- do you see where it says Failed
 7 Outpatient Therapies here on the form?
 8 A. I do.
 9 Q. Do you know what that means?
 10 A. It means that the provider believes that these are Failed
 11 Outpatient Therapies.
 12 Q. What's a Failed Outpatient Therapy?
 13 A. A therapy that has not worked the way the provider thinks
 14 it should have.
 15 Q. Why is it important for the provider to put Failed
 16 Outpatient Therapies on the 407?
 17 A. So that I don't look for those therapies -- or look for
 18 those problems.
 19 Q. Okay. So can you read the first line of the Failed
 20 Outpatient Therapies, for the record?
 21 A. "Anoscopy: Perirectal area normal to inspection and
 22 palpation."
 23 Q. And the second sentence?
 24 A. "No hemorrhoids, fissures or condylomata."
 25 Q. What's a hemorrhoid?

1 A. It's essentially a varicose vein in the anus.
 2 Q. Why would it be important to check for hemorrhoids in this
 3 patient?
 4 A. Because bright red bleeding may be coming from his
 5 hemorrhoids.
 6 Q. What's a fissure?
 7 A. A fissure is essentially a tear in the anus.
 8 Q. And why would you check for fissures in this patient?
 9 A. Bright red bleeding.
 10 Q. What is that last word in that sentence?
 11 A. Condyloma?
 12 Q. Yeah. What is that?
 13 A. Human papillomavirus warts.
 14 Q. And why would we check for human papillomavirus warts in
 15 this patient?
 16 A. Well, typically they're external, they don't bleed very
 17 much, and they're just part of a complete exam.
 18 Q. Do you see, below that paragraph, where it says
 19 "Protonix"?
 20 A. Yes.
 21 Q. What's Protonix?
 22 A. It's a PPI, what you asked about earlier.
 23 Q. Yes. PPI is a proton pump inhibitor?
 24 A. Correct.
 25 Q. And the proton pump inhibitor I believe you testified

Page 25

1 would reduce the level of acid in the patient's stomach?
 2 A. Correct.
 3 Q. So why would you prescribe Protonix for this patient?
 4 A. I didn't.
 5 Q. Do you believe it's an appropriate drug to treat this
 6 patient's symptoms?
 7 A. If the patient was having epigastric tenderness, yes, and
 8 you'll see that he does.
 9 Q. Would Protonix do anything for this patient's bright red
 10 blood in his stool?
 11 A. Probably not.
 12 Q. Okay. What are some possible causes of bright red blood
 13 in the stool?
 14 MR. SCARBER: Asked and answered I believe maybe
 15 twice, but go ahead.
 16 A. Bright red blood in the stool, it would be a fissure, it
 17 would be hemorrhoids, it could be constipation, it could
 18 be a polyp. It actually has been found that there are
 19 some people that have bright red blood in their stool from
 20 a gastric ulcer, ulcerative colitis, Crohn's disease, and
 21 that would be the top diagnoses.
 22 Q. How about bowel perforation?
 23 A. Typically bowel perforation does not cause bright red
 24 bleeding in the stool; it causes internal bleeding.
 25 Q. How about cancer?

Keith Papendick, M.D.

08/23/2021

Pages 26..29

Page 26

Page 28

1 A. Well, that would be polyps, but yes.

2 Q. Are you able to determine, from the information contained
3 in this 407 request, the source of the patient's rectal
4 bleeding?

5 A. No.

6 Q. What information would you need to be able to determine
7 the source of the bleeding?

8 A. Find out if the patient is constipated, then clear the
9 constipation, then do a, probably do a colonoscopy.

10 Q. So a colonoscopy would be necessary to determine why this
11 patient has been passing blood in his stool?

12 A. Not necessarily. You can pass blood and have a normal
13 colonoscopy.

14 (Deposition Exhibit Number 3 will be marked upon
15 receipt.)

16 BY MR. CROSS:

17 Q. All right. I'm going to direct your attention to another
18 document. We'll call this Exhibit 3.

19 Do you recognize this document, sir?

20 A. 11-22-16. It's a 407.

21 Q. Is this a document you reviewed to prepare for today's
22 deposition?

23 MR. SCARBER: I'm going to place another
24 objection. If you can identify what the exhibits are when
25 you refer to them, that would be helpful.

Page 27

1 A. I would have to see the bottom of this to find out if I
2 reviewed this or not.

3 BY MR. CROSS:

4 Q. (Indicating.)

5 A. Yes, I did.

6 Q. And this is a Michigan Department of Corrections
7 Consultation Request Form submitted 11-22-2016.

8 So in the comments right below the name of this
9 individual, Kaelynn Pfeil, could you read that, for the
10 record?

11 A. "Request colonoscopy to evaluate rectal bleeding."

12 Q. And the reviewer comments down here, would you read that?

13 A. "ATP: Medical necessity not demonstrated at this time.

14 Clear constipation, consider utilizing Senna 8.6
15 milligrams up to 2 tabs twice a day scheduled not PRN, and
16 reevaluate at the time that the abdominal films
17 demonstrate resolution of constipation."

18 Q. What does that mean?

19 A. That means clear his constipation and prove that it's
20 cleared.

21 Q. And then do what?

22 A. Then you can reevaluate the patient. I can then look at
23 whether a colonoscopy is warranted.

24 Q. So why did you issue this ATP instead of approving this
25 request for a colonoscopy?

1 A. First of all, if he's constipated, you can't do an

2 adequate colonoscopy in a constipated individual. You
3 have to clear the constipation and prove it's been
4 cleared.

5 Second, in the prison population, constipation
6 is a horrible problem and, unfortunately, that is more
7 common than any of the other reasons for bright red
8 bleeding in the population.

9 Q. All right. So I want to go back to this Exhibit 2, the
10 January '17 request.

11 And what does it say in the Lab & X-ray Data,
12 starting on the third line?

13 A. "X-ray abdominal: Multi-view abdomen revealed the
14 visceral outlines to be unremarkable. The gaseous pattern
15 appeared to be normal. No evidence of calculi could be
16 seen in the region of the kidneys, ureters or urinary
17 bladder. No constipation was seen."

18 Q. And what's the date on that?

19 A. 12-8.

20 Q. 12-8-16?

21 A. Correct.

22 Q. So Exhibit 3, which we just looked at, this November 16
23 request, it looks like they did what you told them to do;
24 they cleared the constipation and proved clearance with an
25 X-ray; correct?

Page 29

1 A. I would have to see the X-ray.

2 Q. So this Lab & X-ray Data here where it says "no
3 constipation was seen", that's not sufficient?

4 A. No. It's not sufficient. I would see the X-ray report.

5 Q. Do the requests you review typically come with an X-ray
6 report?

7 A. Sometimes; most of the times, I have to ask for it.

8 Q. Did you ask for the X-ray report on this occasion?

9 A. I assume so, but --

10 Q. I'm sorry. I didn't hear that.

11 A. I said I assume so, but I don't -- I can't recall. My
12 medical judgment would say get the X-ray.

13 Q. What are your options in responding to a 407 request?

14 A. Approve, defer, or ask for more information.

15 Q. Did you approve, defer, or ask for more information for
16 this request?

17 A. I don't know. I would have to see the bottom.

18 Q. (Indicating.)

19 A. I ATP'd it.

20 Q. Why didn't you ask for more information?

21 A. I may have had the X-ray.

22 Q. Can you read your ATP, for the record?

23 A. "Medical necessity not demonstrated at this time. When
24 symptoms demonstrate medical necessity, resubmit."

25 Q. What's medical necessity?

Keith Papendick, M.D.

08/23/2021

Pages 30..33

Page 30

Page 32

1 A. Do we need an off-site that can't be contained -- excuse
 2 me -- do we need an off-site visit that can't be done on
 3 site.
 4 Q. Can a colonoscopy be done on site?
 5 A. No, but further workup can be.
 6 Q. So what further workup did you order in this ATP?
 7 A. I had already ordered it to clear the constipation and
 8 prove that it was cleared.
 9 Q. And why doesn't this Lab & X-ray Data indicate that they
 10 have done that?
 11 A. Well, the lab information says he's not anemic, which is
 12 unusual in somebody who, quote, has blood in every stool.
 13 The abdominal film I would've had to see. So either I
 14 didn't see it or the lab data does not support or
 15 something else.
 16 Q. But you're not able to determine -- strike that.
 17 When would symptoms demonstrate medical
 18 necessity?
 19 A. If he continued to have problems.
 20 Q. Do you know how long this patient had been having bright
 21 red blood in his stool at this point?
 22 A. Yeah, since November, he had bright red blood as a
 23 subjective observation.
 24 Q. What do you mean by that?
 25 A. I mean that he told them that he's been having bowel

Page 31

1 movements with bright red blood since November. He --
 2 Q. Is there any reason not to believe him?
 3 MR. SCARBER: You know, I think the doctor is
 4 trying to finish a couple of the answers and I think
 5 because of the delay, you think he's finished; is that
 6 true?
 7 THE WITNESS: That's true.
 8 MR. SCARBER: It's not your fault, Ian; it's
 9 just the way that this is happening. Go ahead. Finish
 10 your answer.
 11 A. I can't remember what I was going to say.
 12 MR. SCARBER: Court Reporter, Madam Court
 13 Reporter, can you repeat back the answer -- the last
 14 question and answer?
 15 (At 12:02 p.m., record repeated by reporter as
 16 follows: "Q. What do you mean by that?
 17 A. I mean that he told them that he's been
 18 having bowel movements with bright red blood
 19 since November. He --")
 20 A. So that does not mean that he has had bright red blood, it
 21 means that he thinks he has had bright red blood, and the
 22 lab tests certainly don't lean towards that, with a normal
 23 hemoglobin.
 24 BY MR. CROSS:
 25 Q. Can you read the first sentence on the second line of the

1 Signs & Symptoms on this request?
 2 A. The one that begins with "he was found"?
 3 Q. Yes.
 4 A. "He was found to have FOBT positive on 11-8, 11-9, 11-17,
 5 11-18 and 11-22.
 6 Q. Are those subjective reports?
 7 A. Yes, they are.
 8 Q. Why are they subjective?
 9 A. Well, they're subjective from a physician's standpoint.
 10 Q. How about, "On 12-20-16 he returned three FOBT positive
 11 cards, after clearing constipation"?
 12 A. Yeah.
 13 Q. Is that subjective?
 14 A. Okay. FOB can be positive for several reasons. One is
 15 blood; two is anything he ate that had blood in it; three
 16 is anything that causes his stool to be black; or a
 17 misread of the FOBT cards. The FOBT cards are read by
 18 nursing staff, typically. I don't know if these were read
 19 by a physician or not.
 20 Q. So we have I think here eight FOBT positive cards in the
 21 Signs & Symptoms and you're assuming that all of them were
 22 misread?
 23 A. No. I didn't say misread.
 24 Q. So when you received this request, did you doubt that Mr.
 25 Lyles actually had bright red blood in his stool?

Page 33

1 A. I don't know that I doubted it. I noted that his
 2 hemoglobin was 15.4, which is rather normal for a male,
 3 and somebody who had been bleeding significantly would not
 4 have a hemoglobin of 15.4.
 5 Q. So why would we even test with these FOBT cards?
 6 Why don't we just do hemoglobin tests to
 7 determine if people are bleeding rectally?
 8 A. Doing a hemoglobin test will not tell you that a patient
 9 is bleeding rectally. There are more anemias than anemias
 10 caused by rectal bleeding.
 11 Q. But any anemia caused by rectal bleeding would result in a
 12 low hemoglobin level?
 13 A. That's what anemia is.
 14 (Deposition Exhibit Number 4 will be marked upon
 15 receipt.)
 16 BY MR. CROSS:
 17 Q. All right. We'll call this Exhibit 4. I'm going to show
 18 you another document. It is a request dated 12-22-2016.
 19 Is this something you reviewed to prepare for
 20 today's deposition?
 21 A. You have to drop down a little bit.
 22 Q. (Indicating.)
 23 A. Yes.
 24 Q. How did you respond to this request?
 25 A. ATP'd it.

Keith Papendick, M.D.

08/23/2021

Pages 34..37

Page 34

Page 36

1 Q. What was your --
 2 A. **I beg your pardon?**
 3 Q. What was your ATP?
 4 A. **"Medical necessity not demonstrated at this time. Treat**
 5 **constipation with scheduled Senna and prove clearance with**
 6 **abdominal films and reevaluation" -- excuse me -- "and**
 7 **reevaluate."**
 8 Q. Is that any different than your November 2016 ATP?
 9 A. **I don't know. I'd have to see it.**
 10 Q. All right. Let's go to Exhibit 3.
 11 A. **It is different.**
 12 Q. How is it different?
 13 A. **I asked for abdominal films, demonstrate resolution of**
 14 **constipation in the November 22 note.**
 15 Q. And then in the December 22, did you request that they
 16 prove clearance with abdominal film?
 17 A. **No. That was already requested in the previous ATP.**
 18 Q. I guess what I'm getting at is did you request the same
 19 thing again?
 20 A. **I did not request abdominal film for resolution of the**
 21 **constipation on the second one; I did request abdominal**
 22 **film for resolution of the constipation on the first one.**
 23 Q. All right. Can you read -- we're looking at the
 24 12-22-2016 ATP?
 25 A. **Yes.**

Page 35

1 Q. Can you read the ATP, second sentence?
 2 A. **I already did. "Medical necessity not demonstrated at**
 3 **this time. Treat constipation with scheduled Senna 8.6**
 4 **milligrams" -- excuse me -- "8.6, 2 tabs, BID, prove**
 5 **clearance with abdominal film" -- oh, I guess I did --**
 6 **"and reevaluate."**
 7 Q. Isn't "prove clearance with abdominal film and reevaluate"
 8 the same thing you requested a month before?
 9 A. **Yeah, but it was in different wording. I'm sorry.**
 10 Q. So why did you give them the same ATP that they had just
 11 done?
 12 A. **Because it still says constipation.**
 13 Q. Can you read the second sentence of the last Lab & X-Ray
 14 Data on, this is the December '16 ATP?
 15 A. **Sure. Wait a minute. That's December 22nd.**
 16 Q. We have a November, we have a December, and we have a
 17 January, so right now we're on the December.
 18 A. **It says, "Multi-view abdomen revealed the visceral**
 19 **outlines to be unremarkable. The gaseous pattern appeared**
 20 **normal. No evidence of calculi could be seen in the**
 21 **region of the kidneys, ureters or urinary bladder."**
 22 Q. So what does it mean that the visceral outlines appeared
 23 to be unremarkable?
 24 A. **That they can see the bowel.**
 25 Q. What does it mean that the gaseous pattern appeared normal

1 throughout?
 2 A. **That he had the correct amount of gas in his colon.**
 3 Q. What's the clinical significance of that?
 4 A. **Well, you can have the correct amount of gaseous patterns**
 5 **appearing normal throughout with constipation. There's**
 6 **nothing in this that says constipation is cleared.**
 7 Q. All right. So if we go to the January '17 response, that
 8 does say constipation was cleared; correct?
 9 A. **It depends on who read it.**
 10 Q. What'd you say?
 11 A. **I said it depends on who read the X-ray.**
 12 Q. Well, what they reported to you in the request form was
 13 that there was no constipation; right?
 14 A. **And we have a radiologist, at that time in 2016, that was**
 15 **reading no constipation with constipation. Right.**
 16 Q. All right. I want to direct your attention to the top of
 17 this form.
 18 Do you see where it says, "Third-Party insurance
 19 (VA, Workmen's Comp, Federal, Interstate Compact)?
 20 A. **Yes.**
 21 Q. Do you know what Interstate Compact means?
 22 A. **No. It's an insurance company.**
 23 Q. It's an insurance company?
 24 A. **Wait. Third-party insurance means, "Are there any?" You**
 25 **see the colon at the end of the line and it says "MDOC".**

Page 37

1 Q. Okay. And VA, Workmen's Comp, Federal, Interstate
 2 Compact, those are potential insurance companies?
 3 A. **As far as I know. That's how I read it.**
 4 Q. That's how you read it?
 5 A. **Yes. And there is no "etc." insurance company. It's a**
 6 **list of insurance companies, and the one he's covered by**
 7 **is MDOC.**
 8 Q. Why is it important to list the insurance company that
 9 he's covered by on the 407?
 10 A. **I don't know.**
 11 Q. You have no idea at all?
 12 A. **No. I have no idea at all.**
 13 Q. Do you have any idea what --
 14 A. **It makes no -- it makes no --**
 15 Q. Go ahead.
 16 A. **It makes no difference to me.**
 17 Q. Do you have any idea what the passthrough list is?
 18 A. **Yes.**
 19 Q. What's the passthrough list?
 20 A. **It's a list of procedures that can be approved without my**
 21 **seeing them.**
 22 Q. Do you contribute to determining what procedures are on
 23 the passthrough list?
 24 A. **I'm part of the department, and the department makes those**
 25 **decisions.**

Keith Papendick, M.D.

08/23/2021

Pages 38..41

Page 38

Page 40

1 Q. Are procedures paid for, by workmen's comp, on the
2 passthrough list?

3 **A. I have no idea. I have no idea who pays for any of it.**

4 Q. Do you receive performance evaluations in your job, sir?

5 **A. Yes, on how long it takes me to do a procedure -- or do an**
6 **approval.**

7 Q. Is a portion of your annual performance eval based on the
8 percentage of requests that you ATP?

9 **A. Absolutely not.**

10 Q. It is not?

11 **A. It is not.**

12 (Deposition Exhibit Number 5 will be marked upon
13 receipt.)

14 BY MR. CROSS:

15 Q. All right. I'm going to direct your attention to another
16 document. We'll call this Exhibit 5.

17 Do you recognize this document?

18 **A. Yes. It is a, it is a curriculum vitae, my experience,**
19 **and what's going on, what's happening with the patient.**

20 Q. I'm sorry. What was that?

21 **A. It's my experience and what my job is.**

22 Q. Okay. So see this Key Accomplishments section right here?

23 Can you read your first Key Accomplishment, for
24 the record?

25 **A. "Worked with providers one-on-one and increased approval**

Page 39

1 **rate for outpatient consult requests to ninety percent**
2 **consistently."**

3 Q. What does that mean?

4 **A. That means that I approved ninety percent of what comes**
5 **across my desk.**

6 Q. Well, how did you work with providers one-on-one to
7 increase their approval rate?

8 **A. If they're putting in for things that don't, that aren't**
9 **necessary or aren't going to increase the medical care of**
10 **the patient, then I call them and tell them.**

11 Q. So the providers of the prisoners should not be requesting
12 things that are not medically necessary?

13 **A. Correct.**

14 Q. So do you believe that this request, Exhibit 1, for a
15 colonoscopy for Mr. Lyles was inappropriate?

16 **A. Can you go back to that, please, so I can see it?**

17 Q. (Indicating.)

18 **A. That is not for a colonoscopy; that is a request for a GI**
19 **consult. We don't need a GI consult to do a colonoscopy.**

20 Q. How about this one? Is this a request for a colonoscopy?

21 **A. I can't see.**

22 Q. (Indicating.)

23 **A. Yes, it is.**

24 Q. The November 2016 request?

25 **A. Yes, it is.**

1 Q. And do you believe that was inappropriate?

2 MR. SCARBER: Just going to place an objection.

3 Mischaracterizes his testimony. All he said was he didn't
4 believe it was medically necessary at the time. Go ahead.

5 **A. At the time, the constipation was the issue because more**
6 **of our patients have constipation than have problems**
7 **necessitating a colonoscopy. So we go about finding the**
8 **easiest and most obvious problem first and get that out of**
9 **the way of our diagnostic workup.**

10 BY MR. CROSS:

11 Q. So after you had gotten that out of the way, for example,
12 the next month, you also deferred, correct, again?

13 MR. SCARBER: Going to place an objection.

14 Outside the -- misquoting the doctor's testimony, or
15 misrepresenting, but go ahead.

16 **A. Yes. I deferred it again because it wasn't completed the**
17 **first time.**

18 BY MR. CROSS:

19 Q. And then in January '17, you deferred it again; correct?

20 MR. SCARBER: Asked and answered.

21 **A. Yes, I did.**

22 BY MR. CROSS:

23 Q. How is Dr. Oliver supposed to know when the symptoms
24 demonstrate medical necessity?

25 **A. She is a physician.**

Page 41

1 Q. Well, in her medical judgment, she believed Mr. Lyles
2 should have an off-site visit; correct?

3 MR. SCARBER: Just going to place an objection.

4 Calls for foundation. He doesn't know what people -- or
5 what she actually believed. He's not her. You can try to
6 answer the question if you understand it.

7 **A. I don't know that I can answer it. Yes. I deferred it**
8 **and it was because we have not gotten our -- does that**
9 **mean anything, that you changed the host?**

10 BY MR. CROSS:

11 Q. What?

12 MR. SCARBER: Court Reporter -- no, okay. I
13 think the screen quit and he got sidetracked because our
14 screen switched. I'm sorry. I think the people --
15 something on the screen moved or switched around and I
16 think he got stuck in his answer.

17 Okay. So maybe repeat the question or repeat
18 his answer so he can figure out what he left off. I'm
19 sorry. Court Reporter, can you read back his answer so he
20 can figure out where he stopped? Sorry.

21 (At 12:24 p.m., record repeated by reporter as
22 follows: "A. I don't know that I can answer it.
23 Yes. I deferred it and it was because we have
24 not gotten our -- does that mean anything, that
25 you changed the host?")

Keith Papendick, M.D.

08/23/2021

Pages 42..45

Page 42

Page 44

1 THE WITNESS: Yeah. Stop changing the host.
 2 A. Anyway, in my medical judgment, we needed to go get rid of
 3 the constipation. And a very large percentage of the time
 4 you clear the constipation in this group, the patient gets
 5 better, which did happen in this case.
 6 BY MR. CROSS:
 7 Q. What was the last thing you just said?
 8 A. And it did, and it did happen in this case.
 9 Q. This patient got better?
 10 A. Yes.
 11 Q. So you think you made the right decisions with those three
 12 requests we discussed today?
 13 A. Absolutely. In my medical judgment, I made the right
 14 decision.
 15 Q. Are you aware that Mr. Lyles has ulcerative colitis?
 16 A. Yes. And he got a colonoscopy that showed he had
 17 ulcerative colitis.
 18 Q. Do you know when he got a colonoscopy that showed he had
 19 ulcerative colitis?
 20 A. I do not offhand.
 21 Q. Do you know approximately when?
 22 A. It was in the early summer, as I recall.
 23 Q. I'm going to direct your attention to this paragraph at
 24 the bottom of the 407 request form. It says, "Note:
 25 Notify physician or midlevel practitioner immediately if

Page 43

1 unable to obtain an appointment within four weeks. If
 2 service is not completed within four weeks, have patient
 3 reevaluated by physician or midlevel practitioner to
 4 determine if service is still necessary and appropriate."
 5 Is it common that if a service, that you do not
 6 approve, cannot be performed within four weeks --
 7 A. It depends on the --
 8 Q. -- if they --
 9 COURT REPORTER: Are two people talking at the
 10 same time? I don't want to miss anything.
 11 MR. SCARBER: Yes, they were. I didn't object.
 12 This was one of those instances of pausing. The doctor
 13 was answering. I think he started saying "it depends" and
 14 then Mr. Cross came in with his question as he was
 15 answering, not intentionally but because of the delay.
 16 But go ahead and finish your answer if you can pick up.
 17 A. Yes. There are many times procedures that are approved
 18 cannot be done in four weeks.
 19 BY MR. CROSS:
 20 Q. Is it important to promptly diagnose ulcerative colitis?
 21 A. It's important to diagnose anything.
 22 Q. Is it important to promptly diagnose cancer?
 23 A. Of course.
 24 Q. And rectal bleeding could be caused by ulcerative colitis,
 25 Crohn's disease, cancer?

1 A. I would agree with that. Yes.
 2 Q. So delaying the diagnosis of those serious medical
 3 conditions could cause harm to a patient?
 4 MR. SCARBER: And let me place an objection to
 5 relevance and foundation. We know what Mr. Lyles'
 6 situation was -- but go ahead, Doctor -- and it wasn't
 7 everything counsel mentioned, but go ahead.
 8 A. Yes. It's important to get diagnosed, get cancer
 9 diagnosed. It's important to get anything diagnosed so
 10 that we aren't having to continue to do workup.
 11 The concern is there are explicit risks to a
 12 colonoscopy, and so we're getting rid of the things that
 13 can cause the same symptoms, i.e., constipation, before we
 14 go to a colonoscopy.
 15 BY MR. CROSS:
 16 Q. Did you review any medical literature when issuing your
 17 ATP's for Mr. Lyles in these three instances?
 18 A. I, I don't believe so. It's purely medical judgment.
 19 Q. Do you remember what you reviewed?
 20 MR. SCARBER: Just going to place an objection.
 21 I think he said he didn't, he doesn't believe he reviewed
 22 any, any literature or something like that.
 23 MR. CROSS: I asked him if he remembers what he
 24 reviewed.
 25 A. And I said I didn't. There was no need to in this case.

Page 45

1 BY MR. CROSS:
 2 Q. So you do remember what you reviewed or you don't remember
 3 what you reviewed?
 4 MR. SCARBER: Let me just object and note the
 5 confusion. I think he's thinking you're talking about
 6 literature, but go ahead.
 7 A. This is a very common problem and typically handled always
 8 the same way, so I do not know if I reviewed any new
 9 literature.
 10 BY MR. CROSS:
 11 Q. Do you know what UpToDate is?
 12 A. Of course.
 13 Q. What's UpToDate?
 14 A. It's a group of specialists' opinions on what to do next.
 15 Q. Do you use UpToDate to do your job?
 16 A. Yes.
 17 Q. How do you use it?
 18 A. I use it when I do not understand what's going on. When
 19 my medical judgment says that I see what's happening, I
 20 don't need to go to UpToDate.
 21 Q. So you understood what was going on with Mr. Lyles in late
 22 2016 and early 2017?
 23 A. I understood that the man had constipation that needed to
 24 be removed from the diagnostic list.
 25 Q. Did you understand that he was passing bright red blood

Keith Papendick, M.D.

08/23/2021

Pages 46..49

Page 46

Page 48

1 from his rectum?

2 MR. SCARBER: I'm just going to place an

3 objection. He's asked and answered what his understanding

4 was about that in very great detail before, step by step,

5 but go ahead.

6 **A. I understood that the patient was complaining of bright**

7 **red bleeding, with a normal hemoglobin and constipation.**

8 BY MR. CROSS:

9 Q. And did you understand that constipation was cleared per

10 your orders?

11 MR. SCARBER: Just going to place an objection,

12 asked and answered, gone into great detail about

13 constipation, when it was cleared, what his understanding

14 was. Go ahead.

15 **A. Do I need to answer that question again?**

16 BY MR. CROSS:

17 Q. You do have to answer the question unless your attorney

18 specifically tells you not to answer it.

19 **A. Are you looking at the -- are you discussing the 12-8**

20 **X-ray?**

21 Q. Yes.

22 **A. As I said earlier, it would depend upon who read that**

23 **X-ray.**

24 Q. So you're doubting the accuracy of the radiologist?

25 **A. No, I am not. I know the radiologist, I know how he**

Page 47

1 reads, and he doesn't believe that he can read

2 constipation from an X-ray.

3 Q. So if he can't read constipation from an X-ray, why did

4 you order an X-ray to determine if Mr. Lyles was still

5 constipated?

6 **A. There are two radiologists reading X-rays and I would have**

7 **asked the second to read it.**

8 Q. So the other radiologist would be able to tell?

9 **A. Well, the other radiologist does not have a feeling that**

10 **constipation cannot be read from an X-ray.**

11 Q. Who are the two radiologists?

12 **A. Dr. Henderson and Dr. Mindlin.**

13 Q. And which one feels that constipation cannot be read from

14 an X-ray?

15 **A. Well, he doesn't any longer, that was what it was back**

16 **then, and that would be Mindlin.**

17 Q. Do you agree with Mindlin that constipation cannot be read

18 from an X-ray?

19 **A. Absolutely not.**

20 Q. So why wouldn't you trust this X-ray data that says no

21 constipation was seen?

22 **A. Because I believe it was read by Dr. Mindlin.**

23 Q. Can you tell, from the 407 request, which radiologist read

24 the X-ray?

25 **A. No. That's why I told you earlier I would have to see the**

1 **X-ray report.**

2 Q. But you don't know if you actually did request the X-ray

3 report?

4 **A. I did not request the X-ray report; I probably went and**

5 **looked at it.**

6 Q. And then you saw that it was read by Dr. Mindlin?

7 MR. SCARBER: Just going to place an objection

8 to asked and answered.

9 **A. (No response.)**

10 BY MR. CROSS:

11 Q. Who's the other doctor -- I'm sorry -- who reads X-rays?

12 **A. Dr. Henderson.**

13 Q. Henderson. So if we were to request the X-ray report in

14 discovery, would we be able to tell from the report which

15 radiologist read it?

16 **A. Absolutely.**

17 Q. Okay. Did you receive any written discovery responses in

18 this case?

19 **A. What is that?**

20 MR. SCARBER: Can you rephrase your question,

21 counsel?

22 BY MR. CROSS:

23 Q. Did you receive any interrogatories in this case?

24 Do you know what a interrogatory is?

25 MR. SCARBER: Answer his question. He's talking

Page 49

1 about the discovery answers. Go ahead.

2 **A. Yeah. I believe we had them; didn't we? I don't know.**

3 BY MR. CROSS:

4 Q. Okay. I'm going to show you what we will --

5 MR. CROSS: What exhibit are we on; 6?

6 COURT REPORTER: The curriculum vitae was

7 Exhibit 5, if that's the last one you remember marking.

8 (Deposition Exhibit Number 6 will be marked upon

9 receipt.)

10 BY MR. CROSS:

11 Q. Exhibit 6. So is that your signature there, sir?

12 **A. Yes.**

13 Q. And you signed these responses declaring, under penalty of

14 perjury, that the foregoing are true and correct?

15 **A. Correct.**

16 Q. All right. I want to direct your attention to the first

17 interrogatory. I asked, "What criteria and/or information

18 do you use to determine whether a given test, procedure,

19 or off-site referral is medically necessary?"

20 And you said, "In the present matter, no

21 specific policy or criteria was used in the present

22 matter"; correct?

23 **A. I think you're off one response.**

24 Q. Am I?

25 **A. Oh, you're talking about the last one? There was no**

Keith Papendick, M.D.

08/23/2021

Pages 50..53

Page 50

Page 52

1 reason to go look anywhere.

2 MR. SCARBER: Listen to his question and see
3 what he's trying to ask. Is that what your answer says,
4 what he just read? And we can get into what you mean and
5 all that kind of stuff based upon the question, but did he
6 read your answer correctly?

7 **THE WITNESS: Yeah. He read it correctly, yeah,**
8 **off the form.**

9 MR. SCARBER: Okay.

10 BY MR. CROSS:

11 Q. So there's no specific policy or criteria that was used to
12 determine whether any of the tests, procedures, or
13 off-site referrals in this case were medically necessary?

14 **A. It all, it all comes down to what I deem, in my medical**
15 **judgment, needs to be done. I did not -- never mind.**

16 Q. What? I'm sorry? What was that?

17 **A. I didn't say he didn't need a colonoscopy; I said he**
18 **needed to have his constipation cleared.**

19 Q. When you say that a requested off-site procedure is not
20 medically necessary, that is not medically necessary for
21 what?

22 **A. At this time.**

23 Q. So when you used the word necessary, what are you
24 referring to? Necessary to prevent some kind of harm?
25 Necessary for the patient's comfort? What is that?

Page 51

1 **A. Well, it isn't for the patient's comfort. It is for**
2 **whether it's necessary to be done at this time.**

3 Q. Okay.

4 MR. SCARBER: And I'm going to place an
5 objection to asked and answered earlier a couple of times
6 at different places.

7 BY MR. CROSS:

8 Q. So if a procedure is necessary to prevent death, would
9 that procedure be medically necessary?

10 **A. It depends on --**

11 MR. SCARBER: I'm going to place an objection.
12 Wait. Go ahead.

13 **A. It depends on the situation.**

14 MR. SCARBER: And I'm going to object to
15 foundation. It's not a real hypothetical.

16 BY MR. CROSS:

17 Q. So sometimes procedures that are necessary to prevent
18 death are not medically necessary?

19 MR. SCARBER: Mischaracterizes his testimony.

20 **A. I don't believe that's what I said to you.**

21 BY MR. CROSS:

22 Q. You said it depends on the situation; right?

23 **A. Correct.**

24 Q. And I asked you if a procedure that is necessary to
25 prevent death is medically necessary?

1 **A. It depends on when it's asked for. It depends on**

2 **supporting data. There's -- that can't be answered.**

3 Q. What do you mean it can't be answered?

4 **A. That's a hypothetical question. It has nothing to do with**
5 **this case.**

6 Q. Well, I'm asking it.

7 MR. SCARBER: I'm going to place an objection.

8 I mean it's a, it's a very broad question. It's not
9 delineated with any type of facts and circumstances
10 whatsoever. The question is is a procedure that's

11 necessary to prevent death medically necessary? What kind
12 of procedure? There's all kinds of procedures that, you
13 know, where they may not be appropriate, depending on what
14 the circumstances are, even in a situation like that, so I
15 don't, I don't really understand the question myself.

16 BY MR. CROSS:

17 Q. I guess when we're saying something is medically necessary
18 or it's not medically necessary, medically necessary for
19 what?

20 MR. SCARBER: Asked and answered many times.

21 BY MR. CROSS:

22 Q. Go ahead.

23 **A. I don't know what else I can tell you. I have told you**
24 **what it means.**

25 Q. How about a liver transplant for a patient with endstage

Page 53

1 liver disease, is that medically necessary?

2 MR. SCARBER: It's hypothetical and it has
3 nothing to do with this case. Mr. Lyles does not have
4 endstage liver disease.

5 BY MR. CROSS:

6 Q. Well, I'm just trying to understand what you mean when you
7 say that a gastroenterology consult or a colonoscopy for
8 Mr. Lyles are not medically necessary.

9 **A. I have explained that.**

10 Q. Do you think that Mr. Lyles could benefit from a
11 gastroenterology consult?

12 **A. An off-site visit is approved; you can't do it on site.**

13 **And everything that we were working on could be done on**
14 **site. There was no reason for a gastric --**

15 Q. So could you -- go ahead. I'm sorry.

16 **A. There was no reason for a gastroenterology consult at that**
17 **time.**

18 MR. SCARBER: Hey, Ian, maybe give him a
19 two-second pause or something and that way you'll know
20 he's done before you chime in --

21 MR. CROSS: Okay.

22 MR. SCARBER: -- to the best of your ability. I
23 know it's difficult.

24 BY MR. CROSS:

25 Q. So could you do a colonoscopy on site?

Keith Papendick, M.D.

08/23/2021

Pages 54..57

Page 54

Page 56

1 MR. SCARBER: Asked and answered.
 2 **A. I already told you no, they can order it on site. They**
 3 **don't need a GI consult to order a colonoscopy.**
 4 BY MR. CROSS:
 5 Q. So why wasn't your ATP, in January, colonoscopy?
 6 **A. Because I didn't have the information that I needed to**
 7 **prove that the colonoscopy, that the colonoscopy could be**
 8 **done without a problem from the constipation.**
 9 Q. Well, what did you want them to do for Mr. Lyles instead
 10 of a colonoscopy or gastroenterology consult in January of
 11 2017?
 12 MR. SCARBER: Well, I'm going to place an
 13 objection because I think he's definitely gone through
 14 this probably for about ten, fifteen minutes or more, but
 15 go ahead. I mean we're gonna rely on his testimony every
 16 time you ask the same question, but go ahead.
 17 **A. Can you read me the question back, please, Court Reporter?**
 18 COURT REPORTER: Do you want me to read it back,
 19 Mr. Cross?
 20 MR. CROSS: Yes. Go ahead.
 21 (At 12:46 p.m. record repeated by reporter as
 22 follows: "Q. Well, what did you want them to do
 23 for Mr. Lyles instead of a colonoscopy or
 24 gastroenterology consult in January of 2017?")
 25 **A. I think I was clear. Clear the constipation, make sure**

Page 55

1 **the constipation is cleared and reevaluate the patient,**
 2 **reevaluate the patient to see if he needed anything more.**
 3 BY MR. CROSS:
 4 Q. So then why does this ATP not request that they clear his
 5 constipation and make sure the constipation is cleared?
 6 **A. Because I had already done it twice and, thus, they had**
 7 **reviewed that, those two ATP's, and knew exactly what I**
 8 **needed.**
 9 Q. And you don't believe they did that?
 10 **A. I don't believe they did what?**
 11 MR. SCARBER: Form, foundation, and asked and
 12 answered.
 13 BY MR. CROSS:
 14 Q. Gave him Senna twice daily, verified clearance with
 15 abdominal film?
 16 MR. SCARBER: Asked and answered. Go ahead.
 17 **A. They had a film that was questionable, in my mind.**
 18 BY MR. CROSS:
 19 Q. And that's why you ATP'd this request?
 20 MR. SCARBER: Form --
 21 **A. I --**
 22 **THE WITNESS: Oh, I'm sorry. Go ahead.**
 23 MR. SCARBER: Asked and answered, as to why he
 24 ATP'd this, many times, but go ahead.
 25 **A. I ATP'd this because I wasn't sure that the constipation**

1 **had been cleared.**
 2 BY MR. CROSS:
 3 Q. Why didn't you write that in your ATP?
 4 MR. SCARBER: Asked and answered. You just
 5 asked him why he didn't write the same thing he wrote
 6 before.
 7 **A. (No response.)**
 8 BY MR. CROSS:
 9 Q. You wrote, "When symptoms demonstrate medical necessity,
 10 resubmit".
 11 So we're waiting for symptoms to necessitate
 12 medical necessity; correct?
 13 **A. Correct.**
 14 Q. And when would symptoms demonstrate medical necessity?
 15 **A. When there is no constipation, when the patient has been**
 16 **reevaluated, if the reevaluation showed that the patient**
 17 **does need a colonoscopy, he certainly would get it.**
 18 Q. Well, what would the reevaluation consist of?
 19 **A. Physician seeing the patient in the office and reviewing**
 20 **labs, everything.**
 21 Q. What are the risks associated with a colonoscopy?
 22 **A. Rupture.**
 23 Q. Uh-hum.
 24 **A. Death.**
 25 Q. Uh-hum.

Page 57

1 **A. Anaphylaxis to the medications used in a colonoscopy.**
 2 Q. What are the risks of leaving ulcerative colitis
 3 untreated?
 4 MR. SCARBER: I think that was asked and
 5 answered, too, but go ahead.
 6 **A. It does not cause any more -- any worsening of the**
 7 **condition.**
 8 BY MR. CROSS:
 9 Q. What are the risks of leaving colon cancer untreated?
 10 MR. SCARBER: Foundation.
 11 **A. Did this case have colon cancer?**
 12 MR. SCARBER: Just, just answer the best you
 13 can. It's hypothetical, it sounds like.
 14 **A. Yeah, it's hypothetical. There's no colon cancer in this**
 15 **case and the risk of not treating colon cancer could be**
 16 **myriad but they may not be.**
 17 BY MR. CROSS:
 18 Q. When you say they could be myriad, what does that mean?
 19 **A. That means there could be many things that happen because**
 20 **it wasn't treated.**
 21 Q. Are you being sued by any other prisoners besides
 22 Mr. Lyles?
 23 MR. SCARBER: I'm sorry, Ian. I didn't hear the
 24 first part of your question. What did you say?
 25 BY MR. CROSS:

Keith Papendick, M.D.

08/23/2021

Pages 58..61

Page 58

Page 60

1 Q. Are you being sued by any other prisoners besides
2 Mr. Lyles?

3 MR. SCARBER: I'm going to object to relevance.
4 I think you said sued?

5 MR. CROSS: Yes.

6 MR. SCARBER: Okay. I'm going to object, I'm
7 going to object to relevance and undue prejudice; but for
8 purposes of discovery, you can answer.

9 **A. I don't understand how that relates to anything to do with**
10 **this case.**

11 MR. SCARBER: You can still answer the question
12 for purposes of a dep.

13 **THE WITNESS: Oh. The question am I being sued?**

14 MR. SCARBER: Yes.

15 **A. Yes. That comes with the territory.**

16 BY MR. CROSS:

17 Q. Do you know how many prisoners are suing you?

18 **A. No, I do not.**

19 Q. Were you ever sued before you started working in prisons?

20 MR. SCARBER: I'm going to place an objection to
21 relevance and undue prejudice and no probative value, but
22 go ahead.

23 **A. Yes.**

24 BY MR. CROSS:

25 Q. How many times?

Page 59

1 **A. Twice.**

2 Q. How many times have you been sued since you started
3 working in utilization management?

4 **A. I do not know.**

5 (Deposition Exhibit Number 7 will be marked upon
6 receipt.)

7 BY MR. CROSS:

8 Q. All right. I'm going to show you another document. We'll
9 call this Exhibit 7. I want you to read this paragraph
10 starting with "I", for the record.

11 MR. SCARBER: Hang on a minute. Can you
12 identify for the Court exactly what you want him to read,
13 please, and let the record reflect that this is -- go
14 ahead.

15 MR. CROSS: The paragraph starting with "I".

16 MR. SCARBER: What is it that you want him to

17 read? What is the document? Hang on before you answer it.

18 MR. CROSS: It is a opinion in Pope v. Corizon
19 Health, Keith Papendick, et al.

20 MR. SCARBER: Can you go back up to the top?

21 MR. CROSS: (Indicating.)

22 BY MR. CROSS:

23 Q. Go ahead.

24 MR. SCARBER: Okay. So this is a -- I'm going
25 to place an objection. This is a pending case. This

1 isn't a final, an actual final opinion. This case is
2 still pending.

3 MR. CROSS: I'm just --

4 MR. SCARBER: So for him to comment, for him to
5 comment on an ongoing lawsuit is inappropriate and
6 objectionable, and I'll probably only allow very limited
7 questioning on this because I think I'm well within my
8 right to instruct him not to answer on this stuff.

9 BY MR. CROSS:

10 Q. Go ahead.

11 MR. SCARBER: What do you want him to do?

12 MR. CROSS: I want him to read the paragraph
13 starting with "I".

14 **A. Are you talking about the number one?**

15 BY MR. CROSS:

16 Q. Yes.

17 MR. SCARBER: It's Roman Numeral I.

18 BY MR. CROSS:

19 Q. Roman Numeral I.

20 **A. Roman Numeral I: "As the Court noted in its screening**
21 **opinion, the case focuses on events that occurred while**
22 **Pope was incarcerated at Women's Huron Valley" -- or**
23 **excuse me -- "WHV."**

24 MR. SCARBER: All right. That's as far as we're
25 gonna go with it. Don't read any more. It's a pending

Page 61

1 lawsuit. I'm not letting him comment on it. You can get
2 an order, you can get an order from the Court if you want
3 to have him comment and read opinions on pending lawsuits.

4 BY MR. CROSS:

5 Q. Are you aware that you're a Defendant in this lawsuit?

6 **A. I could be.**

7 Q. Do you know what it's about?

8 **A. No, I do not.**

9 Q. No idea what the allegations are at all?

10 MR. SCARBER: Same objection. Don't answer any
11 more. We'll get a protective order if it continues.

12 BY MR. CROSS:

13 Q. All right. I'm going to go back to the interrogatories.

14 I believe this was Request to Produce or -- I'm sorry.

15 It's Exhibit 6, Interrogatory --

16 MR. SCARBER: Hang on one second, too. Now that
17 I understand what you were doing, I'm gonna move to strike
18 this Exhibit 7 as well. Go ahead, Doctor.

19 **THE WITNESS: I haven't got a question.**

20 MR. SCARBER: No. He's back to another exhibit.

21 MR. CROSS: We're talking about something else.

22 **THE WITNESS: Correct. And I don't have a**
23 **question, so I can't go ahead.**

24 MR. SCARBER: Okay. I'm dealing with my
25 objection. Listen to his question and then answer.

Keith Papendick, M.D.

08/23/2021

Pages 62..65

Page 62

Page 64

1 BY MR. CROSS:

2 Q. So Interrogatory 3, we asked if between January 1, 2016
3 and January 1, 2018 you ever communicated with a medical
4 provider at a Michigan prison concerning the percentage of
5 that individual provider's 407 requests that are ATP'd,
6 and you indicated that you had not; correct?

7 A. Correct.

8 Q. And that's true you have not done that?

9 A. **There were reports put out every month that showed the
10 providers how many requests they had, how many were ATP'd,
11 and how many were deferred -- or I mean were NMI'd.**

12 Q. And you discussed those reports with the providers?

13 A. **No. They were sent to them. Their regional medical
14 directors discussed them and that would've --**

15 Q. Did you ever -- I'm sorry. Go ahead.

16 A. **I'm sorry. That would've been only until mid 2017.**

17 Q. Only until mid 2017?

18 A. Correct.

19 Q. So after January 1, 2016?

20 A. **Between January 1, 2016 and early 2017, I produced reports
21 of what was going on. They were --**

22 Q. And what was -- sorry. Go ahead.

23 A. **From January 2016 till early 2017, I produced reports from
24 the data.**

25 Q. And what was the purpose of those reports?

Page 63

1 A. **My boss asked me to do it.**

2 Q. What was contained in the reports?

3 A. **There's --**

4 MR. SCARBER: I'm going to place an objection to
5 relevance.

6 A. **They're so old that I have no idea anymore.**

7 BY MR. CROSS:

8 Q. So it wasn't even -- well, let's switch gears.

9 Do you believe it's important to determine the
10 reason why someone is passing bright red blood from their
11 rectum?

12 MR. SCARBER: Asked and answered, but go ahead.

13 A. **Yes. It's important.**

14 BY MR. CROSS:

15 Q. Why is it important?

16 A. **Because there's a possibility that it could be pathologic
17 or it's a possibility that it is benign or it could be a
18 misread.**

19 Q. What's pathologic mean?

20 A. **Abnormal.**

21 Q. And were you able to determine for sure, from the 407
22 requests that were submitted to you, that Mr. Lyles'
23 rectal bleeding was caused by constipation?

24 A. **That's not my position.**

25 Q. Then what's your position?

1 A. **My position is to make sure that somebody looks at that.**2 **That's the provider on site.**

3 Q. But were you able to ascertain that that was the cause?

4 A. **20/20 vision retrospect, no, I could not ascertain that.**

5 MR. CROSS: Okay. I don't have further
6 questions.

7 MS. FOSTER: I don't have any questions for this
8 witness.

9 MR. SCARBER: Okay. Let's take a quick break.
10 (At 1:00 to 1:08 p.m., recess taken.)

11 MR. SCARBER: We can go back on.

12 EXAMINATION

13 BY MR. SCARBER:

14 Q. Attorney Devlin Scarber appearing on behalf of the Corizon
15 Defendants, including Dr. Papendick. Dr. Papendick, I
16 have a few follow-up questions for you.

17 Were you utilizing your medical judgment when
18 you were responding to the 407 requests concerning Andrew
19 Lyles?

20 A. **Absolutely.**

21 Q. And was it your medical judgment, regarding your
22 understanding of his particular conditions, that served as
23 a basis for your determinations and decisions?

24 A. **Yes.**

25 Q. Now, when receiving a 407 request regarding an undiagnosed

Page 65

1 GI bleed in the stool, what are the differentials that you
2 are considering?

3 A. **You have to consider infection, such as C. difficile --**

4 **that's capital C period d-i-f-f-i-c-i-l-e -- constipation,
5 hemorrhoids, inflammatory bowel disease, irritable bowel
6 disease, and colon cancer, or polyps that could be
7 pre-colon cancer.**

8 Q. Now, do these conditions that you describe have common
9 symptoms, such as abdominal pain, change in bowel habits,
10 bright red blood in the stool and diarrhea?

11 A. **Yeah.**

12 Q. And you talked about, in your experience, many inmates
13 suffering from constipation in the prison.

14 Why? Why is that?

15 A. **Well, they have a low fiber diet. I will tell you when I
16 was working at Duane Waters, we had patients who had said
17 they didn't want to drink water because they thought we
18 had poisoned it. They don't have full access to movement,
19 to get out and have exercise that would help them with the
20 constipation.**

21 Q. Do the inmates also complain of diarrhea and bloody stool
22 with positive FOB tests and that's often caused by
23 constipation?

24 A. **Yes. It's called post-obstructive constipation or --
25 excuse me -- post-obstructive diarrhea, where the**

Keith Papendick, M.D.

08/23/2021

Pages 66..69

Page 66

Page 68

1 constipation is obstructing the bowel, the bowel contents
2 from coming down to the colon and, thus, the body
3 liquifies the stool above the constipation, it goes around
4 the constipation, and they actually get leaking a lot from
5 that.

6 Q. What is -- it's a term -- what is loose stool overflow?

7 A. That's what I was just describing.

8 Q. Okay. Is that what you were describing?

9 A. Post-obstructive diarrhea.

10 Q. Have you experienced, in your position with Corizon and
11 working in this capacity with inmates or reviewing
12 requests concerning inmates, that relieving constipation
13 will very often relieve an inmate's symptoms?

14 A. Absolutely. And I've actually had inmates who I got notes
15 from the provider, that they wanted to thank me for taking
16 care of their constipation issue so that they didn't have
17 to have further testing and diagnostics.

18 Q. Mr. Cross was asking you about the January 6, 2017 407
19 request and ATP, and he asked you about medical necessity,
20 the meaning of medical necessity not being demonstrated at
21 this time and when symptoms demonstrate medical necessity,
22 resubmit.

23 Do you believe that your decision at that point
24 was reasonable?

25 A. Well, yes.

Page 67

1 Q. And can you give me some reasons why you believe that and
2 what your rationale is?

3 A. Well, there was never a time that the provider said that
4 she didn't feel it was reasonable. The X-ray still needed
5 to be redone. We don't need a GI consult to do any of
6 those things.

7 Q. Was his hemoglobin and iron levels normal?

8 A. Yes.

9 Q. Does that play a role -- and I think you were discussing
10 that with Mr. Cross -- in your decision?

11 A. Yes. Yes, it does.

12 Q. And why is that important for you?

13 A. Because significant, significant bleeding in the bowel, or
14 anywhere, would cause anemia. And in this case there
15 wasn't anemia, so he hadn't lost a great deal of blood, if
16 he had lost any. Like I said, they could've
17 misinterpreted what the red was.

18 Q. Had there been a significant amount of time between when
19 the last physical was done and when you got the January
20 6th, 2017 report -- I'm sorry -- 407 request?

21 A. Oh, I think it was a month.

22 Q. Okay. The last X-ray it looks like demonstrating or
23 referencing constipation was, I think, December 8th, 2016.

24 Could the Plaintiff have become constipated
25 again by the time the January 6th 407 was submitted?

1 A. Absolutely.

2 Q. Over a month later?

3 A. Absolutely.

4 Q. Between January 17th and March 17th of 2017, the testimony
5 in this case has been and the evidence in this case and
6 records has been that -- or has demonstrated -- I'm
7 sorry -- that Mr. Lyles' condition had improved, and I
8 think that you had referenced that in your testimony with
9 Mr. Cross?

10 A. Correct.

11 Q. Would that also be an indication to you that your
12 decisions at the time that you made them, in your mind and
13 in your medical judgment, were appropriate?

14 A. Yes. And he was, during that time as I recall, he was
15 treated with antibiotics, which would go along with the C.
16 diff diagnosis.

17 Q. So the final question to you, Dr. Papendick, do you
18 believe, based upon the information, based upon the
19 training and experience that you have and the information
20 provided in the 407's, the information provided in the
21 records, what we've found out concerning Mr. Lyles'
22 condition, do you believe that with respect to all of
23 those things and in consideration of all of those things,
24 that your actions, regarding the 407 requests, were
25 appropriate at the time that you issued your 407

Page 69

1 responses?

2 A. Yes. They were appropriate.

3 MR. SCARBER: I don't have anything further.

4 MR. CROSS: All right. I have some cross,
5 unless, Jennifer, you want to go?

6 RE-EXAMINATION

7 BY MR. CROSS:

8 Q. Okay. Dr. Papendick, your attorney asked you some
9 questions about post-obstructive diarrhea; correct?

10 A. Yes.

11 Q. And you described a situation where there can be a
12 obstruction and the body liquifies the stool to move the
13 stool around the obstruction; correct?

14 A. Around the colon or -- excuse me. That's not quite
15 correct.

16 Q. Okay.

17 A. It's around the constipated, it's around the constipated
18 stool, not obstruction.

19 Q. So there is a constipated stool and then there is a liquid
20 stool flowing around it?

21 A. Correct.

22 Q. Now, the constipated stool, is that something that could
23 be visible on an X-ray?

24 A. Could be.

25 Q. Or it could not be visible on an X-ray?

Keith Papendick, M.D.

08/23/2021

Pages 70..73

Page 70

Page 72

1 A. Well, it may be read as normal if there's only one piece.

2 Q. Would that constipated stool affect the gaseous pattern of
3 the viscera?

4 A. No.

5 Q. Would it affect the gaseous pattern in the colon?

6 A. Well, that is the viscera, but no.

7 Q. Okay. So how would one detect if this was a constipated
8 stool or not if you can't detect it with an X-ray?

9 A. If they're having diarrhea, that makes no sense.

10 Q. So diarrhea would be evidence of the constipation?

11 A. Could be.

12 Q. Could be?

13 A. If he has post-obstructive diarrhea.

14 Q. So you just know there's bloody diarrhea; you don't know
15 if it's postobstructive or not, but post-obstructive is
16 one possibility?

17 A. First of all, I don't know that he's got bloody diarrhea.

18 I know he's saying that he has bloody diarrhea and he had

19 FOB positive studies that could be blood or may not be

20 blood, and he has diarrhea, and at the time of having his

21 diarrhea, he had X-rays demonstrating constipation.

22 Q. When was the X-ray done that demonstrated constipation?

23 A. I don't have that; you have it. There was one in November
24 and I believe one in December.

25 Q. Do you know which one of those two demonstrated

Page 71

1 constipation?

2 A. I believe both of them. It wasn't until January that it
3 was read that there was no constipation.

4 Q. So blood in the stool could be caused by constipation;
5 right?

6 A. Yes.

7 Q. Would that also cause weight loss?

8 A. If he's not eating correctly, yes.

9 Q. Would it cause left lower quadrant pain?

10 A. Yes.

11 Q. Are there other possible causes of bloody stool, weight
12 loss and left lower quadrant pain besides constipation?

13 A. Yes.

14 MR. SCARBER: And I'll place an objection.

15 Asked and answered.

16 BY MR. CROSS:

17 Q. And you were aware that it could have been one of those
18 other causes; correct?

19 A. Certainly.

20 Q. Okay.

21 A. But the more common cause, the more common cause is
22 constipation and we wanted to get that ruled out before we
23 went further into this investigation, and he had to have
24 his constipation cleared before we could do a colonoscopy.

25 MR. CROSS: All right. I don't have further

1 questions. Thank you.

2 MS. FOSTER: I still have no questions.

3 MR. SCARBER: I have nothing further. Thank you.

4 COURT REPORTER: Can I just get your orders?

5 MR. CROSS: I'd like an etrans.

6 MR. SCARBER: I'd like the same. Thank you.

7 MS. FOSTER: I'm good with a PDF mini. Thanks.

8 (At 1:23 p.m., Zoom deposition concluded.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 73

1 STATE OF MICHIGAN)

) SS

2 COUNTY OF KENT)

3

4

5 I certify that this transcript, consisting of 73 pages,
6 is a complete, true and correct record of the testimony of said
7 witness held in this case on Monday, August 23, 2021.

8 I also certify that prior to taking this deposition, the
9 witness was duly sworn to tell the truth.

10

11 Date: 09-02-2021

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Diane Murray

Diane Murray, CSR-4019, RPR

County of Kent, State of Michigan

My Commission expires: 10-12-2025

Keith Papendick, M.D.**08/23/2021****1**

1

1 14:17,22 39:14 62:2,3,19,20
11-17 21:2 32:4
11-18 21:3 32:5
11-22 21:3 32:5
11-22-16 26:20
11-22-2016 14:21 27:7
11-8 21:2 32:4
11-9 21:2 32:4
11:02 4:1
11:15 9:19
11:23 9:19,21
11:37 17:19
12-20-16 32:10
12-22-2016 33:18 34:24
12-8 28:19 46:19
12-8-16 28:20
12:02 31:15
12:24 41:21
12:46 54:21
14 13:15
15.4 33:2,4
16 22:10 28:22 35:14
17 28:10 36:7 40:19
17th 68:4
1:00 64:10
1:08 64:10
1:23 72:8

2

2 20:2,6 27:15 28:9 35:4
20/20 64:4
2014 8:15

2016 12:5,6,7,9 34:8 36:14 39:24
45:22 62:2,19,20,23 67:23
2017 20:21 45:22 54:11,24 62:16,
17,20,23 66:18 67:20 68:4
2018 62:3
2021 4:1
22 34:14,15
22nd 35:15
23 4:1
2:04 14:21

3

3 26:14,18 28:22 34:10 62:2

4

4 33:14,17
407 5:6 11:7,8,25 12:1,3,16,17,
20,23 13:2,5 20:8 23:16 26:3,20
29:13 37:9 42:24 47:23 62:5
63:21 64:18,25 66:18 67:20,25
68:24,25
407's 5:2,4 11:6 13:4 20:17 68:20

5

5 38:12,16 49:7

6

6 49:5,8,11 61:15 66:18
6th 20:21 67:20,25

7

7 59:5,9 61:18

8

8.6 27:14 35:3,4
8th 67:23

A

a.m. 4:1 9:19,21 17:19
abbreviation 19:9
abdomen 28:13 35:18
abdominal 27:16 28:13 30:13
34:6,13,16,20,21 35:5,7 55:15
65:9
ability 53:22
Abnormal 63:20
Absolutely 10:7 12:11 16:6 38:9
42:13 47:19 48:16 64:20 66:14
68:1,3
absorb 7:6
absorbed 7:2
access 65:18
Accomplishment 38:23
Accomplishments 38:22
accuracy 46:24
acid 6:20 7:10,12,14 8:3,5 25:1
actions 68:24
actual 60:1
adequate 28:2
administering 4:6
affect 70:2,5
agree 18:13 21:22 44:1 47:17
ahead 6:13 7:20 9:11 13:1 16:21
21:20 22:23 25:15 31:9 37:15
40:4,15 43:16 44:6,7 45:6 46:5,
14 49:1 51:12 52:22 53:15
54:15,16,20 55:16,22,24 57:5
58:22 59:14,23 60:10 61:18,23
62:15,22 63:12
all-inclusive 12:3
allegations 61:9
Alternative 19:9
amount 36:2,4 67:18

Keith Papendick, M.D.

08/23/2021

2

amylase 6:16,25
 Anaphylaxis 57:1
 and/or 11:19 49:17
 Andrew 4:13 64:18
 anemia 21:19,21 33:11,13 67:14, 15
 anemias 33:9
 anemic 30:11
 annual 38:7
 anoscope 18:6
 anoscopy 15:14,16,19 16:8,10, 14,16,17,23 18:11 23:21
 answering 43:13,15
 answers 31:4 49:1
 antibiotics 68:15
 anus 5:24 15:17 24:1,7
 anymore 63:6
 apologize 9:9
 appeared 28:15 35:19,22,25
 appearing 36:5 64:14
 appointment 43:1
 approval 13:8,9 16:18 17:1,4 38:6,25 39:7
 approve 29:14,15 43:6
 approved 37:20 39:4 43:17 53:12
 approving 19:10 27:24
 approximately 42:21
 area 23:21
 ascertain 64:3,4
 assume 29:9,11
 assuming 32:21
 ate 32:15
 ATP 19:8 27:13,24 29:22 30:6 34:3,8,17,24 35:1,10,14 38:8 54:5 55:4 56:3 66:19
 ATP'D 29:19 33:25 55:19,24,25

62:5,10
 ATP's 19:10 44:17 55:7
 attempt 14:1,2
 attention 15:24 20:12,24 22:4 26:17 36:16 38:15 42:23 49:16
 attorney 46:17 64:14 69:8
 August 4:1
 authorized 16:18
 aware 42:15 61:5 71:17

B

back 17:17 28:9 31:13 39:16 41:19 47:15 54:17,18 59:20 61:13,20 64:11
 bad 8:24
 based 38:7 50:5 68:18
 basic 7:1
 basis 64:23
 beets 22:2
 beg 34:2
 begins 32:2
 behalf 64:14
 believed 41:1,5
 believes 23:10
 benefit 10:6,8 53:10
 benefits 17:15,24
 benign 18:6,8 63:17
 BID 35:4
 big 14:5
 bill 11:20
 billing 11:20
 Bismol 23:1
 bit 33:21
 black 14:6 22:16,18,24 32:16
 bladder 28:17 35:21

bleed 22:16 24:16 65:1
 bleeding 16:1,15 22:19,25 23:5 24:4,9 25:24 26:4,7 27:11 28:8 33:3,7,9,10,11 43:24 46:7 63:23 67:13
 blood 21:5,8,9,11,13,16,18,22 22:12,13,15 23:4 25:10,12,16,19 26:11,12 30:12,21,22 31:1,18, 20,21 32:15,25 45:25 63:10 65:10 67:15 70:19,20 71:4
 bloody 65:21 70:14,17,18 71:11
 board 10:16,18
 body 66:2 69:12
 boss 63:1
 bottom 27:1 29:17 42:24
 bowel 7:6 25:22,23 30:25 31:18 35:24 65:5,9 66:1 67:13
 BRB 22:9,11
 break 6:9,15 64:9
 breakdown 6:21
 breaks 7:1
 bright 22:12,13,15 23:4 24:4,9 25:9,12,16,19,23 28:7 30:20,22 31:1,18,20,21 32:25 45:25 46:6 63:10 65:10
 broad 52:8
 bunch 20:17

C

calculi 28:15 35:20
 call 13:24 14:16 20:6 26:18 33:17 38:16 39:10 59:9
 called 4:9 11:8 12:17 65:24
 Calls 41:4
 cancer 21:12,14,23 25:25 43:22, 25 44:8 57:9,11,14,15 65:6,7
 capacity 66:11
 capital 65:4

Keith Papendick, M.D.

08/23/2021

3

cards 32:11,17,20 33:5**care** 8:9 10:4,24 11:2 13:14,16,
21 17:7,10 39:9 66:16**CARES** 11:15,17,18,25 12:5,10
13:4,6**case** 11:15 14:14 20:17 22:20
42:5,8 44:25 48:18,23 50:13
52:5 53:3 57:11,15 58:10 59:25
60:1,21 67:14 68:5**caused** 33:10,11 43:24 63:23
65:22 71:4**center** 8:18,20,22**certified** 10:16,18**chance** 16:12**change** 65:9**changed** 41:9,25**changing** 42:1**check** 24:2,8,14**chemical** 8:2**chime** 53:20**circumstances** 52:9,14**clear** 26:8 27:14,19 28:3 30:7
42:4 54:25 55:4**clearance** 28:24 34:5,16 35:5,7
55:14**cleared** 27:20 28:4,24 30:8 36:6,
8 46:9,13 50:18 55:1,5 56:1
71:24**clearing** 32:11**clinical** 36:3**colitis** 25:20 42:15,17,19 43:20,
24 57:2**colon** 23:5 36:2,25 57:9,11,14,15
65:6 66:2 69:14 70:5**colonoscopy** 18:8,11 26:9,10,13
27:11,23,25 28:2 30:4 39:15,18,
19,20 40:7 42:16,18 44:12,14
50:17 53:7,25 54:3,5,7,10,23
56:17,21 57:1 71:24**colorectal** 21:12,14,23**comfort** 50:25 51:1**comment** 60:4,5 61:1,3**comments** 27:8,12**common** 28:7 43:5 45:7 65:8
71:21**communicated** 62:3**comp** 36:19 37:1 38:1**Compact** 36:19,21 37:2**companies** 37:2,6**company** 13:18,19 36:22,23
37:5,8**complain** 65:21**complained** 21:3**complaining** 46:6**complains** 21:18**complete** 5:13,16 24:17**completed** 40:16 43:2**component** 5:24**components** 5:22**computer** 11:14**concern** 44:11**concluded** 72:8**condition** 57:7 68:7,22**conditions** 44:3 64:22 65:8**conducted** 4:4**Condyloma** 24:11**condylomata** 23:24**confusion** 45:5**connection** 9:20**Consent** 15:12**consideration** 68:23**consist** 56:18**consistently** 39:2**constipated** 26:8 28:1,2 47:5

67:24 69:17,19,22 70:2,7

constipation 25:17 26:9 27:14,
17,19 28:3,5,17,24 29:3 30:7
32:11 34:5,14,21,22 35:3,12
36:5,6,8,13,15 40:5,6 42:3,4
44:13 45:23 46:7,9,13 47:2,3,10,
13,17,21 50:18 54:8,25 55:1,5,
25 56:15 63:23 65:4,13,20,23,24
66:1,3,4,12,16 67:23 70:10,21,
22 71:1,3,4,12,22,24**consult** 11:11 39:1,19 53:7,11,16
54:3,10,24 67:5**Consultation** 27:7**contained** 12:13 26:2 30:1 63:2**contents** 7:6 66:1**continue** 44:10**continued** 11:10 16:2 30:19**continues** 61:11**contribute** 37:22**control** 11:23 13:22,25**conversion** 16:2**Corizon** 11:18 59:18 64:14 66:10**correct** 7:10,11 12:14 15:9,13,14,
15 16:8 17:15,24 24:24 25:2
28:21,25 36:2,4,8 39:13 40:12,
19 41:2 49:14,15,22 51:23
56:12,13 61:22 62:6,7,18 68:10
69:9,13,15,21 71:18**Corrections** 8:9 11:10 27:6**correctly** 50:6,7 71:8**cost** 11:23**could've** 67:16**counsel** 44:7 48:21**couple** 15:5 20:16 31:4 51:5**Court** 4:2 8:24 9:1,17 31:12
41:12,19 43:9 49:6 54:17,18
59:12 60:20 61:2 72:4**covered** 37:6,9**create** 19:10

Keith Papendick, M.D.

08/23/2021

4

criteria 49:17,21 50:11

Crohn's 25:20 43:25

cross 4:11,13 6:10 7:23 8:25 9:3,
7,15,25 12:25 14:5,16,21,24
16:25 17:17 18:3 19:4 20:4,18,
21,23 22:3 23:3 26:16 27:3
31:24 33:16 38:14 40:10,18,22
41:10 42:6 43:14,19 44:15,23
45:1,10 46:8,16 48:10,22 49:3,5,
10 50:10 51:7,16,21 52:16,21
53:5,21,24 54:4,19,20 55:3,13,
18 56:2,8 57:8,17,25 58:5,16,24
59:7,15,18,21,22 60:3,9,12,15,
18 61:4,12,21 62:1 63:7,14 64:5
66:18 67:10 68:9 69:4,7 71:16,
25 72:5

curriculum 38:18 49:6

D

d-i-f-f-i-c-i-l-e 65:4

daily 55:14

dangerous 16:17 18:5,11

data 28:11 29:2 30:9,14 35:14
47:20 52:2 62:24

date 14:19,21 20:16 28:18

dated 20:19,21 33:18

day 19:19,20 22:9 27:15

days 20:1

deal 67:15

dealing 61:24

death 16:1,10,12,14 51:8,18,25
52:11 56:24

December 22:10 34:15 35:14,15,
16,17 67:23 70:24

decision 12:13 42:14 66:23
67:10

decisionmaking 6:5

decisions 37:25 42:11 64:23
68:12

declaring 49:13

decreases 8:5

deem 50:14

Defendant 61:5

Defendants 64:15

defer 18:18 29:14,15

deferred 40:12,16,19 41:7,23
62:11

degree 5:17

delay 9:10 31:5 43:15

delaying 44:2

delays 9:17

delineated 52:9

demonstrate 27:17 29:24 30:17
34:13 40:24 56:9,14 66:21

demonstrated 27:13 29:23 34:4
35:2 66:20 68:6 70:22,25

demonstrating 67:22 70:21

dep 58:12

department 9:12 10:2 11:9 13:25
27:6 37:24

depend 46:22

depending 52:13

depends 19:20,21 36:9,11 43:7,
13 51:10,13,22 52:1

deposition 4:4,24 5:7 14:10,22
20:2,10 26:14,22 33:14,20 38:12
49:8 59:5 72:8

describe 11:12 65:8

describing 66:7,8

description 5:25

desk 39:5

detail 16:4 46:4,12

detect 70:7,8

determinations 64:23

determine 26:2,6,10 30:16 33:7
43:4 47:4 49:18 50:12 63:9,21

determining 37:22

Detroit 5:18

developed 11:18

Devlin 64:14

diagnose 43:20,21,22

diagnosed 44:8,9

diagnoses 25:21

diagnosis 44:2 68:16

diagnostic 40:9 45:24

diagnostics 66:17

diarrhea 65:10,21,25 66:9 69:9
70:9,10,13,14,17,18,20,21

diet 65:15

diff 68:16

difference 10:22 37:16

differentials 65:1

difficile 65:3

difficult 53:23

digestion 6:21 7:9

digestive 5:19 7:12

digests 6:20

direct 15:24 20:12,24 22:4 26:17
36:16 38:15 42:23 49:16

director 8:12,14,17 11:5

directors 62:14

discovery 48:14,17 49:1 58:8

discussed 16:4 42:12 62:12,14

discussing 46:19 67:9

disease 25:20 43:25 53:1,4 65:5,
6

doctor 5:11,14 10:14 17:12,21
18:14 21:9 31:3 43:12 44:6
48:11 61:18

doctor's 5:17 40:14

doctors 13:7

document 11:8 14:3 20:5,7,9

Keith Papendick, M.D.**08/23/2021****5**

26:18,19,21 33:18 38:16,17
59:8,17

documents 4:23 12:1

doubt 32:24

doubted 33:1

doubting 46:24

drink 65:17

drop 33:21

drug 25:5

Duane 8:18,20 65:16

duly 4:9

duodenum 6:22,24

duties 11:4

E

earlier 24:22 46:22 47:25 51:5

early 42:22 45:22 62:20,23

easiest 40:8

eat 23:2

eaten 22:1

eating 71:8

echoing 8:24

echos 9:18

education 5:13,16

employed 8:8

end 36:25

ending 5:24

endstage 52:25 53:4

entry 13:6

epigastric 21:3 25:7

esophagus 6:17,18

essentially 13:17 24:1,7

et al 59:19

etrans 72:5

eval 38:7

evaluate 21:8 27:11

evaluations 38:4

events 60:21

evidence 28:15 35:20 68:5 70:10

exam 24:17

EXAMINATION 4:10 64:12

excuse 9:17 30:1 34:6 35:4 60:23
65:25 69:14

exercise 65:19

exhibit 14:17,22 20:2,6,16 26:14,
18 28:9,22 33:14,17 34:10
38:12,16 39:14 49:5,7,8,11 59:5,
9 61:15,18,20

exhibits 26:24

experience 38:18,21 65:12 68:19

experienced 66:10

expert 6:3

explained 18:21 53:9

explicit 44:11

extensive 6:14

external 24:16

F

facts 52:9

Failed 12:17,20 23:6,10,12,15,19

failure 16:1

fair 20:22

fairly 7:18

family 10:21,22,24

fat 7:1

fault 31:8

Federal 36:19 37:1

feel 67:4

feeling 47:9

feels 47:13

fiber 65:15

fifteen 54:14

fifty 19:25

figure 41:18,20

file 14:17

film 30:13 34:16,20,22 35:5,7
55:15,17

films 27:16 34:6,13

final 60:1 68:17

find 26:8 27:1

finding 40:7

fine 6:5 20:20

finish 21:25 31:4,9 43:16

finished 31:5

fissure 24:6,7 25:16

fissures 23:24 24:8

flowing 69:20

FOB 32:14 65:22 70:19

FOBT 21:2,4 22:2 32:4,10,17,20
33:5

FOBT's 21:11

focuses 60:21

follow-up 64:16

food 6:15,17,18,20 7:2

foregoing 49:14

form 6:1,6 12:22 15:12,18 23:7
27:7 36:12,17 42:24 50:8 55:11,
20

FOSTER 64:7 72:2,7

found 21:2,5 23:2 25:18 32:2,4
68:21

foundation 6:2,6 7:18 41:4 44:5
51:15 55:11 57:10

fruition 12:6,7

full 65:18

Keith Papendick, M.D.

08/23/2021

6

function 5:25 7:5 16:3

functions 6:18

G

gas 36:2

gaseous 28:14 35:19,25 36:4
70:2,5

gastric 25:20 53:14

gastroenterology 53:7,11,16
54:10,24

gastrointestinal 5:23

Gave 55:14

gears 63:8

general 7:19

GI 39:18,19 54:3 65:1 67:5

give 5:24 35:10 53:18 67:1

good 72:7

great 10:2 46:4,12 67:15

group 42:4 45:14

guess 9:2 19:5 34:18 35:5 52:17

guessing 19:6

H

habits 65:9

handled 45:7

hands 18:14

Hang 59:11,17 61:16

happen 16:7 42:5,8 57:19

happening 31:9 38:19 45:19

hard 14:17

harm 44:3 50:24

health 8:18,20,22 11:18 59:19

hear 7:21,24 10:1 29:10 57:23

heard 9:7

Hearing 4:5

helpful 26:25

hemoglobin 31:23 33:2,4,6,8,12
46:7 67:7

hemorrhoid 23:25

hemorrhoids 23:24 24:2,5 25:17
65:5

Henderson 47:12 48:12,13

Hey 20:14 53:18

highly 6:20

horrible 28:6

hospital 8:21

hospitalist 8:18

host 41:9,25 42:1

human 5:19,23 24:13,14

Huron 60:22

hypothetical 51:15 52:4 53:2
57:13,14

I

i.e. 44:13

lan 4:13 8:24 14:5,14 20:14 31:8
53:18 57:23idea 37:11,12,13,17 38:3 61:9
63:6identify 5:22 14:13 20:15 26:24
59:12

ileocecal 7:4

immediately 42:25

important 18:4 23:15 24:2 37:8
43:20,21,22 44:8,9 63:9,13,15
67:12

improved 68:7

inappropriate 39:15 40:1 60:5

incarcerated 60:22

include 6:25

including 64:15

increase 39:7,9

increased 38:25

increasing 22:8

Indicating 27:4 29:18 33:22
39:17,22 59:21

indication 68:11

individual 27:9 28:2 62:5

infection 16:2,15 65:3

inflammatory 65:5

information 4:22 10:13 12:12,15
18:24 26:2,6 29:14,15,20 30:11
49:17 54:6 68:18,19,20

inhibitor 7:16 8:1 24:23,25

inmate's 66:13

inmates 65:12,21 66:11,12,14

inside 15:17

inspection 23:21

instances 43:12 44:17

instruct 60:8

insurance 13:17,19 36:18,22,23,
24 37:2,5,6,8

intentionally 43:15

internal 10:23,25 11:1 25:24

interrogatories 48:23 61:13

interrogatory 48:24 49:17 61:15
62:2

interrupt 20:15

Interstate 36:19,21 37:1

intestine 6:23 7:3,4,7,14

investigation 71:23

involves 7:10

iron 67:7

irritable 65:5

issue 17:3 27:24 40:5 66:16

issued 68:25

issuing 44:16

Keith Papendick, M.D.**08/23/2021****7****J****Jackson** 8:19**January** 20:21 28:10 35:17 36:7
40:19 54:5,10,24 62:2,3,19,20,
23 66:18 67:19,25 68:4 71:2**Jennifer** 69:5**job** 8:11 11:4 13:14 38:4,21
45:15**judge** 10:13**judgment** 9:14 10:11,15 18:1,18
19:5,6 29:12 41:1 42:2,13 44:18
45:19 50:15 64:17,21 68:13**juices** 6:25**K****Kaelynn** 27:9**Keith** 4:8 59:19**Key** 38:22,23**kidneys** 28:16 35:21**kind** 14:19 50:5,24 52:11**kinds** 52:12**knew** 55:7**knowing** 18:13**L****lab** 28:11 29:2 30:9,11,14 31:22
35:13**labs** 56:20**large** 7:4,7,14 42:3**late** 45:21**lawsuit** 60:5 61:1,5**lawsuits** 61:3**lays** 18:14**leaking** 66:4**lean** 31:22**leaving** 57:2,9**left** 41:18 71:9,12**letting** 61:1**level** 25:1 33:12**levels** 67:7**limited** 60:6**lipase** 6:25 7:1**lips** 6:14**liquid** 7:7,8 69:19**liquifies** 66:3 69:12**list** 37:6,8,17,19,20,23 38:2 45:24**listed** 12:20**Listen** 50:2 61:25**literature** 5:9 44:16,22 45:6,9**liver** 52:25 53:1,4**living** 8:6**located** 7:12**location** 4:3**long** 8:13 30:20 38:5**longer** 10:17 47:15**looked** 28:22 48:5**loose** 66:6**loss** 16:3 22:9 71:7,12**lost** 67:15,16**lot** 66:4**lots** 18:7,9**low** 33:12 65:15**lower** 71:9,12**Lyles** 4:13 6:4 32:25 39:15 41:1
42:15 44:17 45:21 47:4 53:3,8,
10 54:9,23 57:22 58:2 64:19**Lyles'** 44:5 63:22 68:7,21**M****M.D.** 4:8**macromolecules** 6:22**Madam** 31:12**made** 42:11,13 68:12**major** 17:3**make** 10:3 12:13 13:21 17:9,14,
22 54:25 55:5 64:1**makes** 37:14,16,24 70:9**making** 8:3,5 17:7 19:6**male** 33:2**man** 45:23**managed** 13:13,16**management** 8:12,13,16,23 9:5,
11,12,16,23 10:2,5 11:5,19,22
13:17,20 17:1,6 59:3**manager** 19:7**March** 68:4**marked** 14:22 20:2 26:14 33:14
38:12 49:8 59:5**marking** 49:7**matter** 49:20,22**MDOC** 36:25 37:7**meaning** 66:20**means** 4:18,21 21:5 23:9,10
27:19 31:21 36:21,24 39:4 52:24
57:19**meat** 22:1 23:2**mechanism** 13:22**medical** 4:25 5:1,4,6,11,14,17,20
8:12,13,17 9:13 10:10,15 11:2,5
12:2 13:13 14:18 18:1,18 19:5,6
27:13 29:12,23,24,25 30:17 34:4
35:2 39:9 40:24 41:1 42:2,13
44:2,16,18 45:19 50:14 56:9,12,
14 62:3,13 64:17,21 66:19,20,21
68:13**medically** 39:12 40:4 49:19
50:13,20 51:9,18,25 52:11,17,18
53:1,8**medication** 8:2

Keith Papendick, M.D.

08/23/2021

8

medications 57:1

medicine 5:18 10:23,25 11:1
17:25

melena 22:17,20

mentioned 7:9 44:7

Michigan 8:10 11:9 27:6 62:4

mid 62:16,17

midlevel 42:25 43:3

milligrams 27:15 35:4

mind 50:15 55:17 68:12

Mindlin 47:12,16,17,22 48:6

mini 72:7

minute 35:15 59:11

minutes 54:14

mischaracterizes 16:20 40:3
51:19

misinterpreted 67:17

misquoting 40:14

misread 32:17,22,23 63:18

misrepresenting 40:15

mix 6:24

mixing 6:16

molecules 7:2

Monday 4:1

month 35:8 40:12 62:9 67:21
68:2

Morning 4:12

mouth 5:23 6:15

move 6:18 61:17 69:12

moved 41:15

movement 65:18

movements 31:1,18

Multi-view 28:13 35:18

myriad 57:16,18

N

name's 4:12

necessarily 13:11 26:12

necessitate 56:11

necessitating 40:7

necessity 27:13 29:23,24,25
30:18 34:4 35:2 40:24 56:9,12,
14 66:19,20,21needed 42:2 45:23 50:18 54:6
55:2,8 67:4

neutral 7:15

Nice 4:12

ninety 39:1,4

NMI'D 62:11

nomenclature 11:11

normal 23:21 26:12 28:15 31:22
33:2 35:20,25 36:5 46:7 67:7
70:1

note 34:14 42:24 45:4

noted 33:1 60:20

notes 66:14

Notify 42:25

November 12:9 28:22 30:22
31:1,19 34:8,14 35:16 39:24
70:23number 14:22 16:12,14 19:22
20:2 26:14 33:14 38:12 49:8
59:5 60:14

numbers 22:8

Numeral 60:17,19,20

nurse 11:15

nursing 32:18

O

o-c-c-u-l-t 21:6

oath 4:6

OB 10:25 11:3

object 6:1 22:23 43:11 45:4
51:14 58:3,6,7objection 6:6,9 7:17 12:21 16:19
19:1 26:24 40:2,13 41:3 44:4,20
46:3,11 48:7 51:5,11 52:7 54:13
58:20 59:25 61:10,25 63:4 71:14

objectionable 60:6

objections 4:5

observation 30:23

obstructing 66:1

obstruction 69:12,13,18

obtain 43:1

obvious 40:8

occasion 12:4 29:8

occult 21:5,6

occurred 60:21

off-site 9:13 10:9,10,14 15:22
17:2,5 18:20 19:11 30:1,2 41:2
49:19 50:13,19 53:12

offhand 42:20

office 56:19

Oliver 15:8,10,18 16:17 18:19,25
40:23

on-site 15:22 17:2,10 18:5 19:11

one-on-one 38:25 39:6

ongoing 60:5

open 16:3,15

opinion 59:18 60:1,21

opinions 45:14 61:3

options 29:13

oral 6:16,19

order 30:6 47:4 54:2,3 61:2,11

ordered 30:7

orders 46:10 72:4

outlines 28:14 35:19,22

Keith Papendick, M.D.**08/23/2021****9****outpatient** 12:17,20 23:7,11,12, 16,20 39:1**outweigh** 17:15,24**overflow** 66:6

P

P.C. 8:10**p.m.** 14:21 31:15 41:21 54:21 64:10 72:8**paid** 11:21 38:1**pain** 16:2 21:3 65:9 71:9,12**palpation** 23:22**pancreatic** 6:24**Papendick** 4:8,12 6:2 59:19 64:15 68:17 69:8**paper** 11:9**papillomavirus** 24:13,14**paragraph** 15:25 20:13,25 22:5,6 24:18 42:23 59:9,15 60:12**pardon** 34:2**part** 6:23 13:24 24:17 37:24 57:24**pass** 26:12**passing** 26:11 45:25 63:10**passthrough** 37:17,19,23 38:2**pathologic** 63:16,19**patient** 9:14 10:3,6,8,11 11:2 13:11,21 15:19 17:7,9,13,15,21, 24 18:1,13,14,15,16,19,23,25 21:8,18,19,21,23 22:1,25 24:3,8, 15 25:3,7 26:8,11 27:22 30:20 33:8 38:19 39:10 42:4,9 43:2 44:3 46:6 52:25 55:1,2 56:15,16, 19**patient's** 21:10,14,16,22 25:1,6,9 26:3 50:25 51:1**patients** 7:20 10:24 23:2 40:6 65:16**pattern** 28:14 35:19,25 70:2,5**patterns** 36:4**pause** 53:19**pausing** 43:12**pays** 38:3**PDF** 72:7**pediatric** 10:24**pediatrics** 11:3**penalty** 49:13**pending** 59:25 60:2,25 61:3**people** 19:21 25:19 33:7 41:4,14 43:9**Pepto** 23:1**percent** 16:11 19:16,17 39:1,4**percentage** 38:8 42:3 62:4**perforation** 25:22,23**perform** 15:11,19**performance** 38:4,7**performed** 18:5,6,9 43:6**performs** 5:25**period** 65:4**Perirectal** 23:21**perjury** 49:14**person** 15:2**Pfeil** 27:9**pharynx** 6:17,19**physical** 67:19**physician** 8:7 15:5 32:19 40:25 42:25 43:3 56:19**physician's** 19:11 32:9**physicians** 18:7,9**pick** 43:16**piece** 70:1**pieces** 6:16**place** 7:17 12:5,21 16:19 19:1

26:23 40:2,13 41:3 44:4,20 46:2, 11 48:7 51:4,11 52:7 54:12 58:20 59:25 63:4 71:14

places 15:5 51:6**Plaintiff** 4:13 67:24**Plaintiff's** 14:17**plan** 19:9**play** 67:9**point** 7:3 30:21 66:23**poisoned** 65:18**policy** 49:21 50:11**polyp** 25:18**polyps** 26:1 65:6**Pope** 59:18 60:22**population** 28:5,8**portion** 38:7**position** 63:24,25 64:1 66:10**positive** 21:2 32:4,10,14,20 65:22 70:19**possibility** 63:16,17 70:16**post-obstructive** 65:24,25 66:9 69:9 70:13,15**postobstructive** 70:15**potential** 37:2**PPI** 24:22,23**practice** 10:21,22,24 13:13**practitioner** 42:25 43:3**pre-colon** 65:7**predominantly** 7:5**prejudice** 58:7,21**preparation** 4:23**prepare** 14:9 20:9 26:21 33:19**prescribe** 25:3**present** 49:20,21**prevent** 50:24 51:8,17,25 52:11

Keith Papendick, M.D.

08/23/2021

10

previous 34:17
 previously 10:18
 prison 28:5 62:4 65:13
 prison's 8:21
 prisoners 39:11 57:21 58:1,17
 prisons 13:7 15:6 58:19
 PRN 27:15
 probative 58:21
 problem 28:6 40:8 45:7 54:8
 problems 23:18 30:19 40:6
 procedure 15:12,22,23 16:3,11,
 15 18:5,6,9,20 38:5 49:18 50:19
 51:8,9,24 52:10,12
 procedures 13:8 17:2,10 18:22
 37:20,22 38:1 43:17 50:12 51:17
 52:12
 process 7:9 11:12 12:5
 Produce 61:14
 produced 62:20,23
 program 11:18
 promptly 43:20,22
 proposed 17:14,23
 propriety 10:13
 protease 6:25
 protective 61:11
 protein 7:1
 proton 7:16 8:1 24:23,25
 Protonix 24:19,21 25:3,9
 prove 27:19 28:3 30:8 34:5,16
 35:4,7 54:7
 proved 28:24
 provided 68:20
 provider 14:25 16:22 23:10,13,
 15 62:4 64:2 66:15 67:3
 provider's 62:5
 providers 12:15 17:1 38:25 39:6,

11 62:10,12
 PTO 19:21
 pump 7:16 8:1 24:23,25
 purely 10:15 44:18
 purpose 9:16,22 10:5 62:25
 purposes 58:8,12
 put 12:22 13:4 23:15 62:9
 puts 11:15
 putting 39:8

Q

quadrant 71:9,12
 quality 8:9 13:22,25
 question 4:16,17,21 6:3,7,8,12,
 14 7:20,24 9:7,10,24 17:16,17
 22:21 31:14 41:6,17 43:14
 46:15,17 48:20,25 50:2,5 52:4,8,
 10,15 54:16,17 57:24 58:11,13
 61:19,23,25 68:17
 questionable 55:17
 questioning 60:7
 questions 6:7 7:18 64:6,7,16
 69:9 72:1,2
 quick 64:9
 quit 41:13
 quote 30:12

R

radiologist 36:14 46:24,25 47:8,
 9,23 48:15
 radiologists 47:6,11
 rate 16:1 39:1,7
 rationale 67:2
 RE-EXAMINATION 69:6
 read 15:25 17:17 21:1 22:2,7
 23:19 27:9,12 29:22 31:25
 32:17,18 34:23 35:1,13 36:9,11

37:3,4 38:23 41:19 46:22 47:1,3,
 7,10,13,17,22,23 48:6,15 50:4,6,
 7 54:17,18 59:9,12,17 60:12,25
 61:3 70:1 71:3
 reading 36:15 47:6
 reads 47:1 48:11
 real 16:5 51:15
 reason 16:23 21:13,15 31:2 50:1
 53:14,16 63:10
 reasonable 66:24 67:4
 reasons 21:16 28:7 32:14 67:1
 recall 29:11 42:22 68:14
 receipt 14:23 20:3 26:15 33:15
 38:13 49:9 59:6
 receive 38:4 48:17,23
 received 11:25 13:14 32:24
 receiving 64:25
 recess 9:19 64:10
 recognize 20:7 26:19 38:17
 record 4:2,25 5:6 9:21 14:14
 15:25 17:19 22:7 23:20 27:10
 29:22 31:15 38:24 41:21 54:21
 59:10,13
 records 5:1,5 12:2,4 14:18 68:6,
 21
 rectal 26:3 27:11 33:10,11 43:24
 63:23
 rectally 33:7,9
 rectum 46:1 63:11
 red 22:12,13,15 23:2,4 24:4,9
 25:9,12,16,19,23 28:7 30:21,22
 31:1,18,20,21 32:25 45:25 46:7
 63:10 65:10 67:17
 redone 67:5
 reduce 25:1
 reevaluate 27:16,22 34:7 35:6,7
 55:1,2
 reevaluated 43:3 56:16

Keith Papendick, M.D.

08/23/2021

11

reevaluation 34:6 56:16,18

refer 12:22 26:25

referenced 68:8

referencing 67:23

referral 49:19

referrals 50:13

referring 50:24

reflect 59:13

region 28:16 35:21

regional 62:13

relates 58:9

relevance 22:23 44:5 58:3,7,21
63:5

relieve 66:13

relieving 66:12

rely 54:15

remember 31:11 44:19 45:2 49:7

remembers 44:23

remotely 4:4,6

removed 45:24

repeat 16:3 17:16 31:13 41:17

repeated 9:21 17:19 31:15 41:21
54:21

rephrase 48:20

report 29:4,6,8 48:1,3,4,13,14
67:20

reported 36:12

reporter 4:2 8:24 9:1,17,21 17:19
31:12,13,15 41:12,19,21 43:9
49:6 54:17,18,21 72:4reports 32:6 62:9,12,20,23,25
63:2

represent 4:13

request 11:11,12,14,25 12:1,13
15:10,18 17:13,22 19:11 20:21
26:3 27:7,11,25 28:10,23 29:13,
16 32:1,24 33:18,24 34:15,18,20,21 36:12 39:14,18,20,24
42:24 47:23 48:2,4,13 55:4,19
61:14 64:25 66:19 67:20requested 18:22 34:17 35:8
50:19

requesting 39:11

requests 9:13 10:3,8 19:18 29:5
38:8 39:1 42:12 62:5,10 63:22
64:18 66:12 68:24

resolution 27:17 34:13,20,22

respect 6:5 7:19 17:10 68:22

respond 33:24

responding 29:13 64:18

response 36:7 48:9 49:23 56:7

responses 48:17 49:13 69:1

resubmit 29:24 56:10 66:22

result 16:10 33:11

retrospect 64:4

returned 32:10

revealed 28:13 35:18

review 4:23 5:1,7,9 10:8 11:6,15
17:13,22,25 19:18 29:5 44:16reviewed 5:4 14:9 20:9 26:21
27:2 33:19 44:19,21,24 45:2,3,8
55:7

reviewer 27:12

reviewing 56:19 66:11

reviews 9:12 11:19,20

rid 42:2 44:12

risk 16:12 57:15

risks 16:1,5 17:14,23 44:11
56:21 57:2,9

role 67:9

Roman 60:17,19,20

ruled 71:22

rupture 16:11 56:22

S

Scarber 6:1,12 7:17,22 9:6,8
12:21 14:13,19 16:19 19:1
20:14,19 21:25 22:23 25:14
26:23 31:3,8,12 40:2,13,20 41:3,
12 43:11 44:4,20 45:4 46:2,11
48:7,20,25 50:2,9 51:4,11,14,19
52:7,20 53:2,18,22 54:1,12
55:11,16,20,23 56:4 57:4,10,12,
23 58:3,6,11,14,20 59:11,16,20,
24 60:4,11,17,24 61:10,16,20,24
63:4,12 64:9,11,13,14 69:3
71:14 72:3,6

scheduled 27:15 34:5 35:3

school 5:18,20

screen 14:5,6 21:14 41:13,14,15

screening 21:12 60:20

section 12:17 38:22

sections 6:22

send 15:10,18 17:12,21

Senna 27:14 34:5 35:3 55:14

sense 70:9

sentence 15:24 20:12,24 22:5
23:23 24:10 31:25 35:1,13

served 64:22

service 10:14 17:13,14,22,23
19:11 43:2,4,5

services 10:9,10

seven-pounds 22:9

sharing 14:5

Sharon 15:8

show 12:23 14:1,3 20:5 33:17
49:4 59:8

showed 42:16,18 56:16 62:9

sidetracked 41:13

signature 49:11

signed 49:13

Keith Papendick, M.D.

08/23/2021

12

significance 36:3
significant 67:13,18
significantly 33:3
Signs 20:13,25 22:5,6 32:1,21
sir 26:19 38:4 49:11
site 10:14 16:24 17:13,21 30:3,4
 53:12,14,25 54:2 64:2
situation 44:6 51:13,22 52:14
 69:11
slight 9:9
small 6:23 7:3
smaller 6:16,22
sounds 57:13
source 22:19 26:3,7
specialists' 45:14
specialty 10:16,18,20
specific 6:4 16:1 49:21 50:11
specifically 46:18
staff 32:18
standpoint 32:9
starch 7:1
started 14:5 43:13 58:19 59:2
starting 5:23 20:13 28:12 59:10,
 15 60:13
State 5:17
step 46:4
stomach 6:19,24 7:13 8:2,5
 22:16,25 25:1
stool 21:5,8,10,11,14,17,18,22
 22:15 23:4,5 25:10,13,16,19,24
 26:11 30:12,21 32:16,25 65:1,
 10,21 66:3,6 69:12,13,18,19,20,
 22 70:2,8 71:4,11
stools 22:8,18,24
stop 6:8 42:1
stopped 41:20

stops 8:2
strike 15:11 30:16 61:17
stuck 41:16
studies 70:19
stuff 14:20 50:5 60:8
subjective 30:23 32:6,8,9,13
submitted 27:7 63:22 67:25
sued 57:21 58:1,4,13,19 59:2
suffering 65:13
sufficient 29:3,4
suing 58:17
summer 42:22
supplied 5:2
support 30:14
supporting 52:2
supposed 7:8 40:23
surgery 16:3
swear 4:6
switch 63:8
switched 41:14,15
sworn 4:9
symptoms 20:13,25 22:5,6 25:6
 29:24 30:17 32:1,21 40:23 44:13
 56:9,11,14 65:9 66:13,21
system 5:19

T

tabs 27:15 35:4
takes 10:24 38:5
taking 66:15
talked 65:12
talking 9:8 12:23 43:9 45:5 48:25
 49:25 60:14 61:21
taught 5:19
tear 24:7

teeth 6:15
telling 13:23
tells 46:18
ten 19:16,17,23 54:14
tenderness 25:7
term 66:6
terms 18:13
territory 58:15
test 21:7,11,13,16 22:2 33:5,8
 49:18
testified 12:12 24:25
testimony 16:21 40:3,14 51:19
 54:15 68:4,8
testing 66:17
tests 31:22 33:6 50:12 65:22
therapies 12:18,20 23:7,11,16,
 17,20
therapy 23:12,13
thing 10:11 34:19 35:8 42:7 56:5
things 16:7 39:8,12 44:12 57:19
 67:6 68:23
thinking 45:5
thinks 23:13 31:21
Third-party 36:18,24
thought 65:17
till 62:23
time 4:15 19:16,17 27:13,16
 29:23 34:4 35:3 36:14 40:4,5,17
 42:3 43:10 50:22 51:2 53:17
 54:16 66:21 67:3,18,25 68:12,
 14,25 70:20
times 22:8 29:7 43:17 51:5 52:20
 55:24 58:25 59:2
title 8:11
today 42:12
today's 4:24 14:10 20:9 26:21
 33:20

Keith Papendick, M.D.

08/23/2021

13

told 12:15 28:23 30:25 31:17
47:25 52:23 54:2

top 25:21 36:16 59:20

total 6:21

touched 18:15

tract 5:23 7:12

training 5:13,16 13:10,12 68:19

trans 17:3

transcript 5:7

transplant 52:25

transportation 17:4,5

treat 25:5 34:4 35:3

treated 57:20 68:15

treating 57:15

treatment 19:9

trouble 4:15

troubleshoot 9:20

true 31:6,7 49:14 62:8

trust 47:20

twenty-five 13:13

two-second 53:19

type 52:9

typically 7:15 22:16,24 24:16
25:23 29:5 32:18 45:7

U

Uh-hum 56:23,25

ulcer 25:20

ulcerative 25:20 42:15,17,19
43:20,24 57:2

unable 43:1

undergo 16:7

understand 4:18 6:12 17:12,20
41:6 45:18,25 46:9 52:15 53:6
58:9 61:17

understanding 46:3,13 64:22

understood 45:21,23 46:6

undiagnosed 64:25

undue 58:7,21

unfortunate 14:7

University 5:18

unremarkable 28:14 35:19,23

untreated 57:3,9

unusual 30:12

Uptodate 5:9 45:11,13,15,20

ureters 28:16 35:21

urinary 28:16 35:21

utilization 8:12,13,16,23 9:4,5,
11,12,16,23 10:2,5 11:4,19,22
13:17,19 17:1,6 19:7 59:3

utilizing 27:14 64:17

V

VA 36:19 37:1

Valley 60:22

valve 7:4

varicose 24:1

vein 24:1

verified 55:14

viscera 70:3,6

visceral 28:14 35:18,22

visible 69:23,25

vision 64:4

visit 17:5 30:2 41:2 53:12

visits 9:13

vitae 38:18 49:6

W

Wait 35:15 36:24 51:12

waiting 56:11

wanted 66:15 71:22

warranted 27:23

warts 24:13,14

water 7:6 65:17

Waters 8:18,20 65:16

Wayne 5:17

week 19:21

weeks 43:1,2,6,18

weight 22:9 71:7,11

What'd 36:10

whatsoever 52:10

WHV 60:23

witness' 16:20

Women's 60:22

word 24:10 50:23

wording 35:9

work 15:6 39:6

worked 23:13 38:25

working 53:13 58:19 59:3 65:16
66:11

workmen's 36:19 37:1 38:1

works 15:5

workup 30:5,6 40:9 44:10

worsening 57:6

would've 30:13 62:14,16

write 56:3,5

written 48:17

wrong 22:2

wrote 56:5,9

X

X-RAY 28:11,13,25 29:1,2,4,5,8,
12,21 30:9 35:13 36:11 46:20,23
47:2,3,4,10,14,18,20,24 48:1,2,
4,13 67:4,22 69:23,25 70:8,22

X-RAYS 47:6 48:11 70:21

Keith Papendick, M.D.
08/23/2021

14

Y

yearly 21:11

years 13:13

Z

Zoom 9:20 72:8